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International Court of Justice

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Official Transcript of the International Military Tribunal in the Matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering, et al., Defendants, sitting at Nurnberg, Germany, on 1 July 1946, 1000-1700, Lord Justice Lawrence presiding.

THE PRESIDENT: I have an announcement to make.

The Tribunal orders that any of the evidence taken on Commission which the Defense Counsel or the Prosecution wish to use shall be offered in evidence by them. This evidence will then become a part of the record, subject to any objections.

Counsel for the organizations should begin to make up their document books as soon as possible and put in their requests for translations.

That is all.

Dr. Stahmer.

DR. STAHMER (Counsel for the defendant Goering): With reference to the events at Katyn, the Indictment contains only the remark that in September 1941, 11,000 prisoners of war who were Polish officers were killed in the woods of Katyn near Smolensk. The Russian Prosecution did not submit the details until the session of 14 February 1946, and on that date, the document USSR 54 was submitted to the Tribunal. The document is an official report from the Extraordinary State Commission, which was given the task of investigating the case of Katyn. This Commission, after --

THE PRESIDENT: Dr. Stahmer, the Tribunal are aware of the document, and they only want you to call your evidence; that is all.

DR. STAHMER: I only wanted to add, Mr. President, that according to this document, there are two accusations: one, that the time of the killing of the Polish prisoners of war was the autumn of 1941, and the second statement is that the killing was carried out by some German military authority, which was using the camouflage of the staff of the Engineer Batallion 527.

THE PRESIDENT: That is in the document, is it not? I have just told you we know the document. We only want you to call your evidence.

DR. STAHMER: Then, as my first witness, I shall call Colonel Friedr

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Ahrens to the witness stand.

DR. SIEMERS (Counsel for defendant Raeder): Mr. President, I have a request before the beginning of the evidence in the case of Katyn. The Tribunal decided that three witnesses would be heard, and it hinted that in the interest of equality, the Prosecution could only produce three witnesses, either by means of direct examination or by means of an affidavit. In the interest of that same principle of equality, I should be interested if the Soviet Delegation, as well as the Defense, should, before the beginning of the evidence, state the names of their witnesses. The Defense have supplied the names of the witnesses weeks ago. Unfortunately, until now, I have still not been able to hear the same from the Soviet Delegation. It is after all in the interest of the principle of equality between the Defense and the Prosecution that we should hear the names of the witnesses.

THE PRESIDENT: General Rudenko, were you going to give me the names of the witnesses?

GENERAL RUDENKO: Yes, Mr. President. We reported to the General Secretary of the Tribunal that the Soviet Prosecution intends to call three witnesses to the stand: Professor Prosorovsky, who is the Chief of the Medical-Legal Experts Commission; the Bulgarian subject, Markov, who was a member of the so-called International Commission created by the Germans; and Professor Bazilevsky, who is the former mayor of Smolensk during the time of the German occupation.

FRIEDRICH AHRENS, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name?

A Friedrich Ahrens.

Q Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

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DIRECT EXAMINATION

BY DR. STAHLER:

Q Mr. Witness, did you, as a professional officer in the German armed forces, participate in the second World War?

A Yes, of course; as a professional officer I did participate.

Q And what rank did you have at the end?

A At the end I was a colonel.

Q Were you stationed in the Eastern Theater of war?

A Yes.

Q In what capacity?

A I was the commanding officer of a signal regiment of an army group.

Q What were the tasks of your regiment?

A The signal regiment of an army group had the task of maintaining the communications between the army group and the neighboring units and subordinate units, and to keep them up, as well as to establish the necessary communications which were needed for defending operations.

Q Did your regiment have any special tasks apart from that?

A No, with the exception of the duty to defend themselves, to do everything in order to prevent an assault attack, and to do everything to defend themselves in such a manner, with the forces at their disposal, that the capture of the regiment should be prevented.

This was particularly important for a signal regiment of an army group and its position, because we had with us a lot of highly secret material which belonged to our staff.

Q Your regiment was Signal Regiment 537. Was there an engineering battalion 537, that is to say, the same number?

A During the time when I wasin that army group I heard of no unit with the same number, nor do I believe that there was such a unit.

Q And whom did you come under? Who was your superior?

A I came under the staff of Army Group Center directly, and that was the case during the entire time when I was with the army group. My superior was General Oberhaueser.

From the point of viewof defense, the signal staff of the regiment with

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its first section, which was directly neighboring to the regimental staff, came partly under the Commander of Smolensk; and all orders which I received from that last named source came via General Oberhaueser, who either approved or refused the commitment of the regiment for a particular purpose.

In other words, I received my orders exclusively from General Oberhaueser.

Q Where was your staff accommodated?

A I have prepared a sketch of the position of the staff West of Smolensk

Q I am having the sketch shown to you. Please tell us whether that is your sketch.

A That sketch was drawn by me from memory.

Q I am now going to have a second sketch shown to you. Will you please have a look at that one also, and will you tell me whether that is a correct picture of the situation?

A May I briefly explain this sketch to you? At the right hand corner, that large red spot is the town of Smolensk. West of Smolensk, and on either side of the road to Witebsk, was the position of the staff of the army group, together with the air force corps. I refer to the position South of Krassny-Bor. I have marked the actual accommodations room for Army Group Center.

That part of my sketch which has a dark line around it was very strongly occupied by troops who came directly under the army group; there was not a house which was empty in that area.

The regimental staff of my regiment were in the so-called little wood of Katyn, of the whole forest around Katyn. That is the white spot which is indicated on the sketch. It measures about one square kilometer, and it is a wood. On the southern edge of this small wood there was the so-called Dnieper Castle, which was the staff quarters of the regiment.

Two and a half kilometers to the east of the staff quarters of the regiment there was the number one company of the regiment, which was the signal company, which did teleprinting and telephone work for the army group. About three kilometers away from the staff there was the wireless company. There were no buildings within about one kilometer of the regimental staff quarters.

Now, this house was a two-storey building which was fairly large. It had about fourteen to fifteen rooms, several bathing establishments, a rifle range,

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garrisons, and so on, and itwas most suitable to accommodate the regimental staff. Our regiment retained this particular position continually.

Q Were there any more high-ranking staffs nearby?

A Higher staffs? Yes. There was the Army Group, which I have already mentioned, then a corps staff from the Air Force, andseveral section staffs. Then there was the Railway Deputy for the Army Group, who was at Guesdowo, and there was a special train.

Q It has been stated in this trial that certain events which had taken place near you had been most secret and most suspicious. Will you please, therefore, answer the following questions with particularly great care?

How many Germans were there in the staff, and what positions did they fill?

A I had three officers in mystaff to begin with, and then two, and approximately eighteen to twenty non-commissioned officers and enlisted men in the ranks; that is to say, as few as I could have in a staff, and every man in the staff fulfilled his task.

Q Did you have Russian personnel in your staff?

A Yes, we had four auxiliary volunteers and some female personnel living in the immediate vicinity of the regimental staff quarters. The auxiliary volunteers remained with the regimental staff continually, whereas the female personnel was changed occasionally. Some of these women came from Smolensk and they lived in a separate building which also belonged to the regimental staff.

Q Did this Russian personnel have special instructions from you for their conduct?

A Generally I issued instructions of conduct for the headquarters of the staff, which did not solely apply to the Russian personnel.

I have already mentioned the importance of secrecy with reference to this staff, which not only knew the positions of the army groups, but also of its neighboring units, and which also knew of the intentions of the army group because they were clearly recognizable. Therefore, the task of secrecy had to be looked after particularly carefully, which it was my duty to take care of. Consequently, the rooms which contained this material were closed, by me, for ordinary traffic, and only those persons were admitted -- particularly with

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reference to officers -- who had been passed by me. However, there were a few non-commissioned officers and other ranks who were put under oath.

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Q To which rooms did this "no admission" order refer?

A In the first place, it referred to the telephone experts in my own room, and partly, although in a somewhat looser way, to the room of the adjutant. All remaining rooms in the house and the site were free --

THE PRESIDENT: Dr. Stahmer, how is this evidence about actual conditions in these staff headquarters relevant to this question?

DR. STAHMER: Mr. President, in the Russian document the allegation is contained that in this staff building there had been particularly secret goings-on, and that the Russian personnel had a strict order to keep quiet imposed on them by Colonel Ahrens, that the rooms had been locked, and that it had only been permitted to enter the rooms accompanied by guards. With reference to this, I have put these questions, in order to clear the question and prove that these events have a perfectly natural explanation because of the tasks which were given to the regiment and which need, quite obviously, a certain amount of secrecy.

For that reason, I have put these questions; in other words, in rebuttal of the statement in the document.

THE PRESIDENT: Very well.

DR. STAHMER: Incidentally, I have finished with this particular type of question.

BY DR. STAHMER:

Q Was the Katyn Wood closed off, and especially strictly guarded by soldiers?

DR. STAHMER: Mr. President, may I remark with reference to this question that once again there had been an allegation that this guarding had only been introduced by the regiment, whereas before that, there had been free entry into the woods. And here again, something was derived which was unfavorable to the regiment.

THE WITNESS: In order to secure anti-aircraft precautions for the staff headquarters, I prevented any timber's being cut in the immediate vicinity of the staff headquarters for the purpose of fuel. During this winter, the situation was such that the units cut wood wherever they could get it.

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On the 22nd of January, there was a fairly heavy air attack on my position during which half of my house was torn away. It was quite impossible to find any other accomodations because of the overcrowding of the area. Therefore, I took all precautions to see to it that this fairly thin wood would be preserved so as to serve as cover. Since, on the other hand, I am an opponent of prohibition signs, I pointed out to troop units that they should leave us our trees as anti-aircraft cover. The wood was not closed off at all, particularly as a road had to be kept open for dispatch bearers and couriers, and only now and then I posted sentries, when I sent into the woods to have a look whether we had our trees left intact.

THE PRESIDENT: Dr. Stahmer, at a time that is convenient to you, you will, of course, draw our attention to the necessary dates, the date at which the unit took over its headquarters and the date at which it left.

DR. STAHMER: Very well.

BY DR. STAHMER:

Q When did your regiment move into the Dnieper River castle?

A As far as I know, this house was taken over immediately after the preceding group had left that area. It was in August, 1941, and it was confiscated together with the other accommodation units of the army group. It was occupied by the regimental staff until August 1943, and remained occupied by my regimental staff as long as I was there.

Q So it was in August, 1941, that first of all an advance party was put in?

A Yes, as far as I know.

Q And then when did the staff arrive actually?

A A few weeks later.

Q Who was the regimental commander at the time?

A My predecessor was Colonel Bedenck.

Q When did you take over the regiment?

A I joined the army group center during the second half of November, 1941, and after taking over the unit, I took over the command of the regiment. It was at the end of November, I think, or the 30th of November, if I remember rightly.

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Q Was there a proper handing over from Bodenck to you?

A There was a very careful detailed and lengthy handing over because of the very considerable task which this regiment had. Add to that that my superior, General Oberhaueser, was an extraordinarily painstaking superior, and he convinced himself personally of such details, and that from the instructions which I had received, I would be fully in a position to take over the task which the regiment.

Q The prosecution has alleged that there were often shots in the forest. Is that true, and what would you attribute that to?

A I have already mentioned that it was one of the main tasks of the regiment to prepare all that was necessary in order to defend themselves against assault. Considering the small number of men which I had in my regimental staff, I had to take the necessary steps that would enable me to have replacements in the shortest possible time. These were formed, and then there was a wireless communication with the regimental staff. I ordered that defense maneuvers should be held and defense positions should be prepared around the regimental staff headquarters, and that there should be continuous maneuvers and exercises in these positions. I partly ran these maneuvers. This was done with the aid of the regimental staff. Of course, shots were fired, particularly since we were preparing ourselves for fighting day and night.

Q There is supposed to have been a very lively and rather persistent traffic moving towards your staff building. Will you please tell us what the significance of this traffic was?

A There was a most unusually heavy traffic into the staff headquarters.

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which was increased since, in the spring of 1941 I was having the house rebuilt. I think that it had been destroyed through air attacks. But of course the maneuvers which were held nearby increased the traffic. The units which were at least 400 kilometers away from the regimental staff headquarters could only, and had to, maintain personal contact with the regiment through the regimental staff. That is the only way they could work with them.

Q. There is supposed to have been considerable truck traffic which has been described as vicious.

A. Apart from size -- it was comparitively small -- these commanders were brought up in trucks; but so was, of course, the entire building material which I required. Apart from that, traffic w as not unusually heavy.

Q. Have you gained knowledge of the fact that about 25 kilometers west of Smolensk there were three Russian prisoner of war camps, which had originally been inhabited by Poles and which had been abandoned by the Russians when the German troops approached in July 1941?

A. During that period, I had not yet arrived. But never during my entire time which I served in Russia did I see a single Pole; not did I hear of Poles.

Q. It has been alleged that an order had been issued from Berlin according to which Polish prisoners of war would be shot. Have you had knowledge of such an order?

A. No, no. I have never heard of such an order.

Q. Have you received such an order from any other unit?

A. I have already just told you that I never heard of such an order; in other words, I did not receive it, either.

Q. Were any Poles shot by direct instructions from you?

A. No Poles were shot on instructions of mine; and, in fact, no one at all was shot on orders given by me. I have never given such an order in my life.

Q. Then, you did not arrive until November 1941. Have you heard anything about your predecessor, General Bedenck having

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given orders for any such measures?

A. I have not heard anything about that. But I, with my regimental staff, with whom I lived together for nine months of such close ties and such close connection -- I know my people so well, and they know me so well, too, that I am perfectly convinced that this perpetration, or this deed, was not permitted by my predecessor; nor could it have been permitted by any single member of my regiment. It would have been absolutely that I would have had --

THE PRESIDENT: This is argument, you know, Dr. Stahmer. This is not evidence; it is argument. He is telling you what he thinks might have been the case.

DR. STAHMER: I asked whether he had heard from members of his regiment about the story.

THE PRESIDENT: The answer to that would be "no", I suppose, that he had not heard -- not that he was convinced, that he had not done it.

DR. STAHMER: Very well.

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BY DR. STAHMER:

Q After your arrival at Katyn, have you made observations to the effect that there was a grave hill, a mound in the woods at Katyn?

A Shortly after I arrived when the territory had been covered by snow, oneof my assodiates pointed out to me that in a certain spot there was some sort of a mound. It couldn't really be called a "mound." There was supposed to be a birch cross and that birch cross I have seen. During the year of 1942, my associates kept telling me that there in our words shootings were supposed to have taken place but I didn't pay any attention to it first of all, although in the summer of 1942, my attention was drawn to it. I pointed out to the army group commander that there were such conversations and he had told me that he had also heard such rumors.

Q Did these stories prove true later on?

A Yes, they did turn out to be true and quite by accident, I, myself, ascertained that; in fact, we were concerned with the graves here. During the year 1943 -- I think either January or February -- quite accidentally there was a wolf in this wood and first of all I believe we were concerned with the wolf and then we followed the tracks with an expert and we then saw that there were scratchings along that hill with the cross and I had inquiries made as to what this was and somebody told me "human bones" and I informed the officer responsible for war graves in the area of this fact because I believed that perhaps we had a grave of soldiers who had been killed, a number of which such graves were in our immediate vicinity.

Q Then, how did the excavations take place?

A I am not informed about that in detail. Professor Dr. Butz arrived one day through orders from the army group and he informed me that in my little wood, excavations were to be carried out because rumors and that he would now inform me of the fact that these excavations in my wood would take place.

Q Did Professor Butz later tell you details of the result of his excavation work?

A Yes, he did tell me details now and then and I remember that he told me that he had conclusive evidence regarding the date and time of the shootings. Amongst other things, he showed me letters which I cannot now remember very exactly but I do remember some sort of diary which he passed

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over to me and there were dates followed by certain written remarks which I couldn't read because they were written in Polish; and in connection with this, he explained to me that these notes had been made by a Polish officer and that he had worked for the past months and that at the end of the diary there was a date, the spring of 1940, and that the lines contained the fear that something horrible was happening to them. That was only the sense, of course, which I am giving to you now.

Q Did he give you any further clues for the date of the shootings which he was assuming?

A Professor Butz, after the exhibits which he had found, was convinced that the shootings had taken place in the spring of 1940 and that he expressed his convictions repeatedly in my presence; later on, too, when the commission viewed the grave and when I had to place my house at the disposal of these commissioners to accommodate them, I personally did not have any dealings whatever with the excavation work itself or the commission as such. All I had to do was to place the house at their disposal. I was a landlord with the corresponding duty.

Q It was alleged that in March, 1943, lorries had transported bodies to Katyn from the outside, who were buried in the little wood. Do you know anything about that?

A No, I knownothing about that.

Q Would you have had to notice it?

A Most probably I would have had to notice it--at least either my officers would have reported it to me, because my officers were continuously in regimental fighting posts, whereas I as a regimental commander was of course travelling a great deal. The officer who was there continuously in those days was Lieutenant Hodt, whose address became known to me last night from a letter.

Q Were Russian prisoners of war used for these excavations?

A As far as I remember, yes.

Q Can you tell us the number?

A I cannot give you exact information because I didn't concern myself with this excavation work until later because of the dreadful stench around our house which was revolting to us, but I believe that I can give you an estimate of the figure. Perhaps therewere forty to fifty people.

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Q It has been alleged that they were shot afterwards. Do you have any knowledge of that?

A I have no knowledge of that and I haven't heard it at any time.

DR. STAHMER: I have no further questions, Mr. President.

BY DR. KRANZBUEHLER (Counsel forDoenitz):

Q Colonel, did you yourself, discuss the observations of 1940 with any of the inhabitants?

A Yes. At the beginning of 1943, a Russian married couple were working there, who lived eight hundred yards away and they were bee-keepers. I, too, kept bees -- and I came into close contact with this married couple. When the excavation was carried out, approximately in May 1943, I told them that they ought to know, after all, since they wereliving directly next to the graves, when these shootings had taken place; thereupon, these people told me this had happened, in the spring of 1940, and that on the station of Guesdowa there had been railway trucks of fifty tons each in which more than two hundred Poles in uniform had arrived, who were taken to the woods in lorries. They had said that they had heard lots of shots and screams, too.

Q Was the wood closed to the population at the time?

THE PRESIDENT: That is a leading question. I don't think you should ask leading questions.

BY DR. KRANZBUEHLER:

Q Do you know whether the population could enter that wood at the time?

A There was afence around the wood and according to the statements from the local inhabitants, civilians could not enter it during the time the Russians were there. The remains of the fence were still visible when I came. The fence exists in my sketch and it is a black line.

Q When you moved into the Dnjeper Castle did you make inquiries as to who the former owners were?

A Yes, I did make inquiries because I was interested. The house was built in a rather peculiar way. It had a cinema plant and it had a rifle range and, ofcourse, that interested me; but I failed to ascertain anything definite during the entire time when I was there.

Q Apart from mass graves in the neighborhood of the castle, were any other graves found?

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A I have indicated by means of a few dots in my sketch that there were a number of other small graves which were found in the vicinity of the castle which contained the decayed bodies; that is to say, skeletons which had dinintegrated and these were graves containing perhaps six, eight, or a few more skeletons which were both male and female skeletons. This could be recognized very clearly because most of them had rubber shoes which were fully preserved that there were also remains of handbags and pocketbooks.

Q How long had these skeletons been in the grounds?

A That, I cannot tell you. I only know that they were decayed and had disintegrated. The bones were preserved but the skeleton structure was no longer preserved.

DR. KRANZBUEHLER: Thank you very much.

DR. LATERNSER: Dr. Laternser, counsel for the General Staff and the OKW.

THEPRESIDENT: DR. Laternser, you know the Tribunal's ruling.

DR. LATERNSER: Yes, sir.

THE PRESIDENT: Well, you have no right to ask any questions of the witness here.

DR. LATERNSER: Mr. President, particularly in this most unusual case, I was going to ask you to allow me to put questions.

THE PRESIDENT: I said to you that you know the Tribunal's ruling and the Tribunal will not hear you. We have already ruled upon this once or twice in consequence of your objections and the Tribunal will not hear you.

DR. LATERNSER: Mr. President, the case of Katyn isone of the most serious accusations raised against the group.

THEPRESIDENT: The Tribunal is perfectly well aware of the nature of the allegations about Katyn and the Tribunal does not propose to make any exceptional rule in that case and it therefore will not hear you and you will kindly sit down.

DR. LATERNSER: Mr. President, in that case, I wish to be clear that by this means in this case, I feel that my defense is limited unduly.

THE PRESIDENT: As Dr. Laternser knows perfectly well, he is entitled to apply to the Commission to call any witness who is called here if his evidence bears upon the case of the particular organizations for which

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Dr. Laternser appeared. I don't want to hear anything further.

DR. LATERNSER: Mr. President, that way which was pointed out to me has no practical significance. I cannot have every witness who appears here called by the commission.

DR. SIEMERS: Dr. Siemers

THE PRESIDENT: Dr. Siemers, you are appearing for the Defendant Doenitz, is it, or Raeder ?

DR. SIEMERS: Defendant Raeder.

THE PRESIDENT: Well, unless the questions you are going to ask particularly refer to the case of the Defendant Raeder, the Tribunal is not prepared to hear any further cross examination. The matter has been generally covered by Dr. Stahmer and also by Dr. Kranzbuehler and, therefore, unless the questions which you want to ask have some particular reference to the case of Raeder, the Tribunal will not hear it.

DR. SIEMERS: Mr. President, I had merely assumed that there were two reasons on the strength of which I could put a few questions : firstly, becaus. the Tribunal themselves have stated that within the framework of the conspiracy all Defendants had been participants; and my second reason was that, according to the description, the statements by the prosecution, Grand Admiral Raeder, too, is considered a member of the supposedly criminal organizations, the General Staff and the OKW. It was for that reason I wanted to ask one or two supplementary questions.

THE PRESIDENT: Dr. Siemers, if there were any allegations that in any way bore on the case against Defendant Raeder, the Tribunal would of course allow you to ask questions; but there is no allegation which in any way connects the Defendant Raeder with the allegations about the Katyn Woods.

DR. SIEMERS: I am grateful to the Tribunal for that statement, Mr. President.

DR. LATERNSER: Mr. President, may I please put a question to you ? May I have the question put to the prosecution, to whose responsibility the case of Katyn is going to be attributed ?

THE PRESIDENT: I don't propose to answer questions of that sort.

The prosecution may now cross examine if they want to.

CROSS EXAMINATION

BY COLONEL SMIRNOV:

Q. Please tell me, Witness, since when, exactly, were you located in the territory of the Smolensk district ?

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A. I have already answered that question. Beginning with the second half of November, 1941.

Q. Please answer me, where were you until the second part of November, 1941? Did you have any relationship to Katyn or to Smolensk as a district ? Were you physically there, were you personally there in September and October 1941 ?

A. No, I wasn't there.

Q. That means that neither in September nor in October, 1941, did you know what events occurred there at that time in the Katyn forest ?

A. During that period I was not there, but earlier I have mentioned that --

Q. No, I am only interested in a short question. Were you there personally or not ? Were you in a position to see yourself what was happening there or not ? Please answer that.

THE PRESIDENT: He says he wasn't there.

THE WITNESS: No, I wans't there.

THE PRESIDENT: He said he wasn't there in September or October, 1941.

COLONEL SMIRNOV: Thank you, Mr. President.

BY COLONEL SMIRNOV:

Q. Maybe you recall the family names of the Russian women workers who were employed at the little castle in the woods ?

A. These female workers were not working in several different houses. They merely worked as auxiliary kitchen personnel in Dnieper castle. I didn't know their names ever at all.

Q. That means that the Russian women workers were only employed in the villa where the Staff headquarters were located ?

A. I believe that question wasn't translated too well. I didn't understand it.

Q. I asked you whether the Russian women workers were employed exclusively in the villa where the Staff headquarters were located ? Is that right ?

A. The women workers worked for the regimental staff as auxiliary workers in the kitchen, and that means as such auxiliary workers in the kitchen they worked on their property; and by their property I mean this particular house with the adjoining attached houses, the stables, the garage, the cellars, the central heating plants; that is where they worked.

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THE PRESIDENT: Wait a minute. The translation was coming through very faintly then. I don't know whether --

Now, go on.

BY COLONEL SMIRNOV:

Q. I will name a few names of German military employees. Will you please tell me whether they belonged to your unit ?

First Lt. Rex.

A. First Lt. Rex was my regimental adjutant.

Q. Please tell me, before your arrival in Katyn was he employed in that unit ? Was he already assigned to that unit ?

A. Yes, he was there before I came.

Q. He was your adjutant, wasn't he ?

A. Yes, he was my adjutant.

Q. Lt. Hodt ?

A. Lt Hodt is right; but what question are you putting about Lt. Hodt ?

Q. I am only questioning you about whether he was assigned to your unit or not ?

A. Lt Hodt was a member of the regiment. Whether --

Q. Yes, that is what I was asking. He was assigned to the unit which you commanded, wasn't he ?

A. By that I didn't mean to say that he was a member of the regimental staff. He belonged to the regiment. The regiment consisted of three units.

Q. And he lived in the same villa, didn't he ?

A. That I don't know. When I arrived he wasn't living there. He didn't join me -- or rather, I ordered him there not until much later.

Q. I will ennumerate a few other family names. N.C.O. Roser, Sergeant Lummert, Storekeeper Giesecke; these were employed who were located in the villa ?

A. May I ask you to mention the names individually once more and I will give you individual answers.

Q. Sergeant Lummert ?

A. Yes.

Q. N.C.O. Roser ?

A. Yes.

Q. And I believe Storekeeper Giesecke ?

A. That man's name was Giesecken.

Q. Yes, that is right. That means that all these were your people or at least they belonged to your unit, didn't they ?

A. Yes.

Q. But you nevertheless assert that you did not know what these people were doing in September and October, 1941 ?

A. As I wasn't there, I can't tell you for certain.

COLONEL SMIRNOV: Thank you.

THE PRESIDENT: We will adjourn now.

(A recess was taken.)

COLONEL SMIRNOV : Mr. President, since the witness has stated that he cannot give any testimony concerning the period of October-November 1941, I will limit myself to very short questions.

BY COLONEL SMIRNOV :

Q Witness, determine the location of the countryside at the entrance of the city with respect to the highway Smolensk-Witebsk. Was t he countryside very far from the highway Smolensk-Witebsk ?

A My sketch is in the ratio of one to a thousand and it is made from memory. I would estimate there that the graves would be 200 to 300 meters directly west, on the road to Dnieper Castle, 200 to 300 meters south of the road Smolensk-Witebsk. An additional 600 meters away you would find Dnieper Castle.

Q Will you repeat that.

A To the south, highway Smolensk-Witebsk, approximately 15 kilometers west of Smolensk. According to the scale, one to one thousand, as far as I am able to s et this down accurately f rom memory, the site of these graves was 200 to 300 meters south, and an additional 600 meters south, directly on the northern bend of the Dnieper, you would find our regimental staff quarters in the Dnieper Castle.

Q Consequently, the countryside was removed from the highway Smolensk-Witebsk by about 600 meters.

A No, that is not correct. What I said --

Q Please name a more or less exact figure. What was the distance between the highway and the countryside, please ?

A In my testimony I just mentioned it, 200 to 300 meters. That was the distance to the graves, and it was an additional 600 meters to the castle. Therefore, it was approximately 900 to 1,000 meters. It might have been 800 meters, but that is the approximate distance which is shown in this sketch which I made.

THE PRESIDENT : I am not following this. Your question Colonel Smirnov, was : How far was it from the road to what you called the countryside, didn't you ?

COLONEL SMIRNOV : No, Mr. President, I asked how far was the countryside from the highway Smolensk-Witebsk.

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THE PRESIDENT : What do you mean by the "countryside" ?

COLONEL SMIRNOV : The Headquarters of the unit which was located in a villa, and this villa was located not far from the Dnieper, at about 900 meters from the highway. I would like to know how far the staff was located from the highway, and how far from the highway the graves were located.

THE PRESIDENT : What you want to know is : How far was the house in which the headquarters was situated from the highway ? Is that right ?

COLONEL SMIRNOV : Yes, that is exactly what I wanted to know, Mr.President.

THE WITNESS : You put two questions to me : first of all, how far were the graves from the highway; and secondly, how far was the house from the highway; what was the distance. I will repeat my answer once more.

The house was 800 to 1,000 meters south of the highway Smolensk-Witebsk.

BY COLONEL SMIRNOV :

Q One minute please. I asked you formerly only concerning the house, but now I will ask you about the graves. How far were these mass graves from the highway Smolensk-Witebsk ?

A From 200 to 300 meters. It might have been 350 meters.

Q Consequently, the graves were separated by 200 or 300 meters from this highway connecting two important centers, is that true ?

A Yes, indeed. There was a distance of 200 to 300 meters, and this highway was open to traffic during the entire time that I was there.

Q That was the substance of my question. Now, please tell me : Was the Katyn Wood a forest, or was it, rather, a park ?

A Up until this time I have mentioned only the little forest of Katyn. This little forest of Katyn is fenced in about, and it is a wooded terrain of one square kilometer. This is a forest of mixed growth, older and younger trees. Many birch trees were contained in this little woods. However, there were clearings in this woods, and I assume 30 to 40 per cent was cleared, and you could see stumps which had just been felled.

Under no circumstances could you describe this wood as a park. Fighting had taken place in this woods, for there were trenches, trench holes, which could still be seen.

Q Yes, but anyway, you would not call the Katyn woods a real woods since it was a small grove in the immediate vicinity of the highway Smolensk-Witebsk.

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Is that so ?

A No, it is not correct to say that. Itwas a forest. The entire Katyn forest was a forest which started with our groves and extended beyond that. This entire Katyn forest was a mixed forest. Part of it had been fenced in, and this part, extending over one square kilometer, was what was called the little Katyn forest by us, but it did belong to this entire wooded region south of the highway. The forest began with our little forest and continued to the west.

Q I am not interested in the general characteristics of the woods. I would like you to answer the following question : Were the mass graves in this grove or not ?

A The mass graves were found directly west of the road which approached our region, and it was a clearing in the woods. Young trees were found there.

Q Yes, but this villa was inside this small grove in the vicinity of the highway Smolensk-Witebsk, is that correct ?

A It was 200 to 300 meters south of the highway Smolensk-Witebsk, and directly west of the incoming road leading to the Dnieper Castle. I characterized this spot through a rather fat white dot.

Q One more question. Do you know whether the highway Smolensk-Witebsk existed before the German occupation of Smolensk, or was it constructed after the beginning of the occupation ?

A At the end of November 1941, when I arrived in Russia, everything was covered with snow, the entire countryside. I gained the impression that this was an old road, whereas the narrow-gage railroad Minsk-Moscow was a newer highway. That was the impression I gained.

Q Please tell me now when was the first time you detected the cross in the grove.

A I cannot give the exact day and fix it exactly. My soldiers told me about this, and on one occasion when I was riding past there, perhaps at the beginning of January 1942 or the end of December 1941, I saw this cross rising above the snow. I saw this cross at that time.

Q You saw it already in 1941 or at the beginning of 1942, is that correct?

A That is what I just testified, yes.

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Q Now, please be more specific concerning the period when a wolf brought you to this cross. Was it in the winter or summer and what was the precise date?

A It was at the beginning of the year 1943.

Q In 1943? And around the cross you saw bones, hadn't you?

A No, I did not see bones first of all. In order to find out whether I had not been mistaken about seeing a wolf, for it seemed quite impossible so near to Smolensk there should be a wolf, together with a hunter I examined the tracks and I found a place where a wolf had pawed. However, the ground was frozen hard. Snow was on the ground and I did not see anything further. Only later, after there had been a thaw, did my men find some bones. However, this was months later and then I showed these bones to a physician and he said that these were human bones. Then I said, that most likely we are concerned with a grave which is left over from the fighting and I told him that the war registration officer would have to take care of the graves just as we were taking care of other graves. That was the reason why I talked with this gentleman. But only when the snow t hawed and melted did that time come about --

Q By the way, did you personally see the Katyn graves?

A Open or before they were opened?

Q Open?

A When they were opened I had to ride past these graves constantly for, after all, they were duly west of the incoming road, perhaps thirty meters west. Therefore, I could not go along this road without seeing these graves.

Q I am interested in the following question. Do you remember what was the depth of the layer of dirt which covered the human bodies in these graves?

A That I do not know. I have already said that through the stench which we had to suffer which lasted for several weeks, I was revolted to such an extent that when I rode past I closed the windows of my car and rushed through as fast as I could.

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Q However, looking at those graves, did you not notice whether the layer of dirt which separated the corpses was thick or thin, was several centimeters or will you estimate it was several meters thick? What do you think about it? Maybe Professor Butz told you in this connection about the layer of dirt covering the corpses.

A As commander of a regiment I was concerned with a region which was almost half as large as Greater Germany. I was on the road a great deal and my work was not chiefly at the position of the regiment where we were stationed. Therefore, in general, from Monday or Tuesday until Saturday I was with my unit and for that reason, when I traveled through I did cast a glance into those graves but I was not especially interested in the details and I did not talk with Professor Butz about such details. In any case, I do not remember this particularly.

Q From the material presented by the Soviet Prosecution it is clear that the bodies lay at a depth of one and a half to two meters and I wonder where you found such a wolf who could dig up such a deep ditch.

A I did not find this wolf. I saw this wolf.

Q Tell me why, after having detected the cross and learned about the graves in 1941, you started the exhumation only in March 1943 ?

A That was not a matter of my concern. That was a matter with which the army group had to concern itself. I have already told you that in the course of the year 1942 the stories became increasingly frequent. I heard about these matters frequently and I spoke to Colonel von Gersthoff in this matter and he suggested or he hinted at the fact that he knew about this matter and thereupon my obligation ended for I had reported what I had seen and heard and apart from that, this entire matter did not concern me and I did not concern myself with it. It was not my business. I had enough other worries.

Q And now the last question. Please tell me with what

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couple you had this conversation and where this couple was located and what was the name of the couple who told you about the shootings in the Katyn woods?

A This couple lived about 800 to one thousand meters north from the end of the incoming road to the Vitobsk road. They lived in a rather small house. Their names I do not recall.

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Q. So you do not remember the name of this couple?

A. No, I do not recall the name.

Q. So you heard about the Katyn events from a couple whose name you do not know, and you did not hear about it from any other of the local inhabitants?

A. Please repeat the question for me.

Q. Consequently, you heard about this event of Katyn only from this couple, whose name you do not remember and you did not hear anything about it from other local inhabitants, is that right?

A. I personally heard this story only from this couple. My soldiers, on the other hand, told me the stories which were current amongst the other inhabitants.

Q. Do you know that during the investigation of the Katyn affair, or of the Katyn provocation by the German police, there were posters on the streets of Smolensk promising an award to the man who could give any testimony concerning the event? It was signed by Lieutenant Foss.

A. I did not see that announcement myself. Lieutenant Foss is know to me by name only.

Q. And the very last question. Do you know the report of the Extraordinary State Commission concerning Katyn?

A. Do you mean the Russian White Paper when you mention this report? Is that the same thing?

Q. No, I am thinking of the Soviet Extraordinary Commission report, concerning Katyn, the Soviet report.

A. Yes, I read that report.

Q. Therefore, you know also that the Extraordinary State Commission named you amongst the persons who are reponsible for the crimes in Katyn. You know about that?

A. It states that there is a Lt. Colonel Arnes.

COLONEL SMIRNOV: I have no further questions.

THE PRESIDENT: Dr. Stahmer, do you wish to re-examine?

H0170 - 0029

BY DR. STAHLER:

Q. Witness, just a little while ago you said that you did not know when Lieutenant Hodt joined your staff. Do you know when he joined the regiment?

A. I know that during the Russian campaign in Russia, and that is from the beginning of the campaign, he belonged to the regiment.

Q. That is, from the beginning he belonged to the regiment?

A. Yes. With the beginning of the Russian campaign, he was a member of this regiment.

Q. Just one more question dealing with your discussion with Professor Butz. Did Professor Butz tell you anything about the date on which these things ended?

A. He told me about the spring of 1940 and he showed me this diary. I looked at the diary and I saw the dates, but I do not recall at this point, in detail, just which dates were contained therein. But these dates ended with the spring of 1940.

Q. There are no entries at other times?

A. Professor Butz told me that documents which might make one conclude as to a later date had not been found, and according to his conviction, he said that these events must have taken place in the spring of 1940.

DR. STAHLER: Mr. President, I have no further questions to put to the witness.

H0170 - 0030

BY THE TRIBUNAL (General Nikitchenko):

Q. When do you contend that Professor Butz told you that the burial of the corpses was in the spring of 1940?

A. I cannot tell you the day exactly, but it was in the spring of 1943, before these excavations had started. I beg your pardon: He told me that he had been instructed to excavate, and during the excavations he was with me on occasions. It may have been in May or the end of April, middle of May, and at that time he told me details about his excavation work, and among other things he told me tht things that I have testified to and stated before this Court. I cannot tell you on just what date Professor Butz visited me.

Q. As I understand you, you said the following things: That Professor Butz arrived in Katyn. When did he arrive in Katyn?

A. In the spring of 1940, Professor Butz came to me and told me that on instructions of the Army Group he was to undertake excavations in my forests, and these excavations were started, and in the course of these excavations --

Q. You say 1940? Or perhaps the translation is wrong. Did I understand you correctly?

A. 1943, in the spring of 1943. In the course of the excavations, a few weeks after the beginning of the excavations, when I was present in this vicinity, Professor Butz visited me and reported to me; or, rather, he discussed this matter with me, and on that occasion he told me the things that I have testified to here. It may have been the middle of May 1943.

Q. According to your former testimony, I understood you to say in answer to a question from Defense Counsel, that Professor Butz contended that the shootings took place in the spring of 1940, before the arrival of the commission for the exhumations. Is that correct?

A. May I repeat once more that Professor Butz--

Q. Do not repeat what you have already said. I am asking you whether it is correct or incorrect. Maybe the translation

was incorrect, or maybe your testimony was incorrect at the beginning.

A. I did not understand the question just put to me. That is the reason why I wanted to explain this thing once more. I do not know just what is meant by this last question. May I ask that this question be repeated?

Q. At first, when you were interrogated, I understood you to say that Professor Butz told you that the shootings took place in the spring of 1940, before the arrival of the commission for the exhumations.

A. No, that has not been understood correctly. I testified that Professor Butz visitied me and told me that he was to undertake excavations, for a small grove was concerned here. These excavations did take place, and six to eight weeks later Professor Butz visited me. Of course, he visited me on other occasions as well, but six to eight weeks later he came to me and told me that he was convinced that on the basis of his findings the date of the shootings could be fixed and that he had fixed this date. The explanations which he gave me may be set to the middle of May.

Q. Were you present when the diary and the other documents were found--the documents that were found by Professor Butz?

A. No.

Q. So, you do not know where he found this diary and the other documents? I mean you personally do not know about it?

A. No, that I do not know.

BY THE PRESIDENT:

Q. When did you first report to superior authority the fact that you suspected that there was a grave there?

A. First of all, I was not suspicious. I have already mentioned that fighting had taken place there, and on the basis of what I head heard, I did not pay much attention to this and did not give this matter, or the stories, any credence. I believed that it was soldiers who had died there.

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Q. You are not answering my question. I am asking you, When did you first report to superior authority that there was a grave there?

A. In the course of the summer 1942, I spoke with Colonel von Gersthoff, and mentioned these stories. Gerthoff told me that he himself had heard similar stories, and in this fashion my conversation with von Gersthoff was concluded. I believe that he did not give any credence to these tories. That I do not know, however.

Then, in the spring of 1943, when the snow was melting, that was the time when these bones were brought ot me, the bones which had been found, and on that occasions I told the officer who was in charge of graves that apparently they were the graves of soldiers

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who had died or been killed. That was before Professor Butz had visited me.

Q Did you make any report in writing?

A No, I did not do that.

Q Never?

A No, I was in no way concerned with this matter.

THE PRESIDENT: The witness can retire.

DR. STAHMER: Then, as an additional witness, I should like to call Lieutenant Reinhard von Eichborn.

THE PRESIDENT: Yes.

REINHARD VON EICHBORN, a witness, took the stand and testified as follows;

BY THE PRESIDENT:

Q Will you state your full name please?

A Reinhard von Eichborn.

Q Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure turth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. STAHMER:

Q Witness, what is your occupation?

A Court assessor.

Q During this war, were you called to service?

A Yes, in August 1939.

Q And what was your unit?

A Army Group 537.

Q And what was your rank?

A At the beginning of the war, Zugfuehrer and Lieutenant, and at the end, first lieutenant.

Q During the course of the war, were you in the Eastern Theater of the war?

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A Yes, from the beginning of the war.

Q With your regiment?

A No, from 1940 onward, in the staff of the Army Group Center--Heeresgruppe Mitte.

Q Apart from this regiment 537, was there an engineering unit 537?

A In the sphere of the Army Group Center, there was no engineering unit 537.

Q When did you come with your unit to the vicinity of Katyn?

A About 20 September the staff of Army Group Center transferred its headquarters to the region of Smolensk.

Q And before then, where had you been stationed?

A How am I to understand this question?

Q Where did you come from?

A From Borrisow.

THE PRESIDENT: One moment. The witness said 20 September. That does not identify the year.

BY DR. STAHMER:

Q What year was this 20 September?

A 20 September 1941.

Q At that time was the regiment 537 there already?

A The staff of the regiment 537 transferred together with a staff of the Army Group at about the same time, where the headquarters of the Army Group was, and advanced units had been stationed there a little in advance in order to set up communications

Q. And where was this staff accommodated ?

A. The staff of Army Group 537 was accommodated in the so-called Nieper-Castle.

Q. Where was the advance unit ?

A. The advance unit occupied this building -- or at least a part of this advance unit did -- so that they could prepare and insure this building for the regimental staff.

Q. Do you know who was in command of this advance unit ?

A. Lieutenant Hodt was in command of this advance unit.

Q. When did this advance unit come to Katyn ?

A. Smolensk fell on about the 17th of July 1941. The Army Group had planned to put its headquarters in the vicinity of Smolensk. However, after this group had selected the quarters, immediately after the fall of the city, this region was confiscated. The advance unit arrived at the time this area was confiscated, and that was probably in the second half of July of 1941.

Q. The advance unit was there from July of 1941 until the 20th of September 1941 ?

A. Yes.

Q. And the entire staff was there from the 20th of September, 1941 ?

A. Yes. It may be that a part of the staff arrived somewhat later, but the bulk of the staff arrived on the 20th of September.

THE PRESIDENT: Are you speaking of the staff of the Army Group or the staff of the Signal Regiment ?

THE WITNESS: I am speaking of both staffs, because the moving of large staffs such as of an army group, could not be taken care of in one day; usually a period of two to three days was needed for that. The operations of the signal corps had to be assured, and therefore some of the staff was left behind until the entire staff had been moved.

BY DR. STAHLER:

Q. Where was the advance unit accommodated ?

A. At least part of the advance unit was accommodated in the Dnieper Castle. Some of the others were put in spots where the companies were quartered later on. The reason for that was to keep the quarters ready for this regiment until the bulk of the regiment had been moved.

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Q. How about the Regimental Staff 537 ?

A. In the Dnieper Castle.

Q. Can you give us the names of the officers who belonged to the regimental staff ?

A. At that time there was Lieutenant-Colonel Bedenck, commanding officer; Lieutenant Rex, adjutant; Lieutenant Hodt, ordnance officer; and Captain Schaefer, who was a signal expert. It may be that one or two other officials were present as well, whose names I do not recall now.

Q. What were the tasks of the regiment ? The other witness has told us about some things. What were the activities of the regimental staff, and how were the activities controlled ?

A. The regiment, which consisted of ten to twelve companies, had to give an exact report each evening as to the work to which the various companies had been put. It was necessary for us to know this so that forces would be at the disposal of new tasks, or could be used for new tasks.

Q. How far were you from the Dnieper Castle ? How far were your accommodations ?

A. Four to five kilometers. I cannot give you the exact distance, however since I always made this distance by truck, but I judge it to be four to five kilometers.

Q. Did you frequently go to Dnieper Castle ?

A. Very frequently, outside of office hours, since I had come from this regiment, knew most of the officers, and was on friendly terms with them.

Q. Can you tell us about the kind and extent of traffic which came to the Dnieper Castle ?

A. In order to judge this, you have to differentiate between persons and things. So far as people were concerned, the traffic was very heavy because the regiment had to be organized very centrally in order to take care of its tasks. Therefore, many couriers came, and commanders of the various companies came to visit the regional staff frequently. On the other hand, there was a heavy traffic of trucks and passenter cars, because the regiment tried to develop its business there, and all sorts of construction work was being carried on there since we remained for quite some time.

Q. Did you know anything about the fact as to whether, 25 to 45 kilometers west of Smolensk, 300 Russian camps with captured Polish officers had been found, which camps allegedly came into German hands ?

A. Polish officers from prisoner of war camps ? That was something I never heard anything about.

Q. Did your Army Group have reports about these Polish camps ?

A. No. I would have noticed that, since the number of prisoners, and especially officers, were reported on, and these reports were submitted to me in the evening, reports which the prisoners made. It was our responsibility to receive these reports and we saw them every evening.

Q. You did not receive a report to that effect ?

A. I never saw such a report from an army group which would have made that report, nor did I ever receive a report

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from an army group which would have had to transmit this report.

Q Could a report like that have been handed in from another source or to another office ?

A The official channel in the Army was very strict and very stringent, and this staff saw to it that official channels were followed. The army group was obligated to give those reports which they had to fill out according to form, and this group took care of the figures concerning prisoners. Therefore, it is quite out of the question. If a number of officers had fallen into the hands of an army group, it would have been impossible for this army group to have transmitted this report in the channel and along the lines that you have just outlined.

Q You said, just a bit ago, that you had an especially close relationship with the officers of this regiment. Did you learn anything through Colonel Dedenck or Colonel Ahrens, or others, to the effect that Polish officers had been shot in Katyn Forest ?

A I knew these officers of the regiment almost without exception, because I myself had been with this regiment for more than a year. I was in such close relationship with most of the officers that, even outside of official channels, they told me everything that took place. Therefore, it is quite out of the question that an important matter like that would not have come to my attention. On the basis of the training which obtained in the regiment, it is quite impossible that there should not have been at least one who would have come to me immediately to tell me about such things.

Q As to the deployment for Regiment 537 -- did you know about all of these orders in the course of your work ?

A The orders for this regiment were found in two ways, reports which applied to the wireless, and second, to the teletype. Since I was an expert at the latter, it was quite a matter of course that I drafted these reports and submitted them to General Oberhaueser. Therefore, each report which was issued had either been drafted by me, or I had seen it in advance.

Q Was there an order given out by your office to shoot Polish prisoners of war ?

A An order like that was neither given by our office nor from another office to the regiment. We did not have a report to this effect, nor did we hear about things like that from any other source or through any other channel.

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Q If an order like that came through official channels, could that only come through your office and through you ?

A This order would have called for the fact that many members of the regiment would have been taken away. Since we were very short of men almost every man in the regiment had to be informed about everything, and it would have been quite out of the question that members of the regiment would have been taken away without our knowing about it.

DR. STAHMER : I have no further questions, Mr. President.

DR. KRANZBUEHLER (Counsel for defendant Doenitz) :
Mr. President .

THE PRESIDENT : Dr. Kranzbuehler, whom are you appearing on behalf of ?

DR. KRANZBUEHLER : For Grand Admiral Doenitz, Mr. President.

THE PRESIDENT : There is no charge made against Grand Admiral Doenitz in connection with this offense at all.

DR. KRANZBUEHLER : Mr. President, the exaggerations and the propaganda connected with them took place at a period of time when Grand Admiral Doenitz was Commander-in-Chief of the Navy. The prosecution alleges that at that tim Grand Admiral Doenitz was a member of the Cabinet and had participated in all acts taken by the government. Therefore, I consider him accused in connection with the case Katyn.

THE PRESIDENT : That would mean that we should have to hear examination from everybody who was connected with the Government. The Tribunal has alrea pointed out, with reference to Admiral Raeder, that his case was not connecte with this matter. It is only when it is directly connected with the matter that counsel for the individual defendants are allowed to examine, in additi to the defendants counsel who calls the witness. If there is any suggestion that you wish to make to the counsel who is calling the witness, you can mak it to him, but you are not entitled —

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DR. KRANZBUEHLER: Mr. President, I shall try to restrict myself to the utmost, but I am asking your permission to put two or three questions to this witness.

THE PRESIDENT: If you have any special questions to put, you may suggest them to Dr. Stahmer, and Dr. Stahmer will put them.

Dr. Kranzbuehler, if you want to put any questions, you may put them to Dr. Stahmer, and he will put them to the witness.

DR. KRANZBUEHLER: Mr. President, I did not quite understand. Shall I write these questions down for Dr. Stahmer?

THE PRESIDENT: If you cannot do it verbally, you may do it in writing, and you may do it later on. But I really do not think there can be any questions which it is so difficult to suggest to Dr. Stahmer as all that.

DR. KRANZBUEHLER: It may be put through Dr. Stahmer? I was only thinking that I would save some time by putting the questions myself.

THE PRESIDENT: I told you, if you wish to ask any questions, you must ask them through Dr. Stahmer.

DR. KRANZBUEHLER: Thank you, Mr. President.

THE PRESIDENT: In the meantime, the Tribunal will go on with the cross examination, and any questions which you wish to put can be put in re-examination.

Does the prosecution wish to cross-examine?

CROSS EXAMINATION

BY COLONEL SHIRNOV:

Q Witness, will you state your exact function in the army? You were in charge of telephone communications in the headquarters of the army group center, were you not?

A No, Mr. Prosecutor, you are wrong. I was the expert of the signal corps of the army group center, not the wireless expert.

Q That was precisely the core of my question. The translation was probably incorrect. So you were in charge of telephone communications, were you not? Is that correct?

A Yes; you are right.

Q Simple, clerical telegrams, or ciphered telegrams?

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A The task of a telephone expert connected with an army group consisted in the keeping open of connections.

Q No, I am not asking you in a general sense. I would like to know whether these were secret telegrams or current army mail, which was not secret.

A There were two kinds of telegrams, open and secret.

Q Were you in charge of the secret telegrams, too?

A Both came through me.

Q Consequently, the communications between the Wehrmacht units and the police authority passed through you; is that correct?

A The experts received the more important telegrams, and especially the secret ones. These were submitted to me.

Q Yes. Consequently, the correspondence between the police authority and the Wehrmacht units passed through you; is that correct? I am asking you this question for a second time.

A I must restrict myself to saying that the exchange of all matters did not come through me, but only the more important secret teletype matters were submitted to me -- not the entire exchange of letters, because that was handled by correspondence and by couriers as well.

Q That is clear. Do you know in this case that in September and October, 1941, there were special units in Smolensk which were bound in close cooperation with the army to carry out the purge of the prisoner of war camps and to exterminate prisoners of war?

DR. LATERNSER: Mr. President, I must object to the utmost to this questioning of the witness. This questioning can have only the purpose of determining connections between the OKW and other commanders. Therefore, they are accusing the general staff and the OKW; and if I am not permitted as the defense counsel for the OKW to put questions for reasons of equal treatment, then the same rules must apply to the prosecution as well.

COLONEL SMIRNOV: Allow me, please, to give you a short explanation, Mr. President.

THE PRESIDENT: Colonel Smirnov, the question is competent.

COLONEL SMIRNOV: I beg your pardon?

THE PRESIDENT: I said the question was competent. You may ask the

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question.

BY COLONEL SMIRNOV:

Q I would like to ask you the following question. Since the secret war telephone messages passed through you, did you accomplish closer telephone communications with the so-called Einsatzgruppe B and the Sonderkommando Moskov, which was at that time in Smolensk, which was assigned to commit crimes in Moscow? Both commandos were at that time in Smolensk.

A Such reports did not come into my hands. I can give a complete explanation to you, Mr. Prosecutor. If, in the area of sphere of the army group center, commandos like that were used, these commandos had their own wireless stations; in the course of the Russian campaign, later, these officers had teletype connections as well. Then they based this activity on the network of the army group. However, that only happened later.

Q Consequently, the telegrams of those special units which, in accordance with instructions of high police authorities were assigned to carry out Sonder actions in cooperation with military units did not pass through your hands in September and October of 1941?

A That is correct. At that time, there were no teletype connections and offices for special units, even if they were in that area at all.

COLONEL SMIRNOV: Mr. President, this document was already presented to the court when the Report No. USSR 3 was presented. If the Tribunal will permit it, I should like to present to the Tribunal and to the defense photostati

copies of one of the documents which were joined to that document. If the Tribunal will look at Page 2 of this document, it will see that the Sonderkommando Moskov and the Einsatzgruppe 3 were located in Smolensk . It says on the first page that this unit, together with Wehrmacht units, was assigned to carry out mass killings in the camps.

THE PRESIDENT: Colonel Smirnov, that is a matter of argument. We shall take judicial notice of it, of course, of everything which is in the Soviet Government's publication. I understadd you to say that this document is a part of the Soviet government communication or Soviet government report.

COLONEL SMIRNOV: Yes, Mr. President; but I would like to ask permissionto present to the Tribunal an original German document, a secret document, which confirms the same thing, and which says that in the area of Smolensk therewere two such Sonder Commandos assigned to carry out mass killings in the camps. And they had to coordinate this action with Wehrmacht units which had to cooperate with them.

THE PRESIDENT: Colonel Smirnov, is this document which you have just handed up to us a part of the Report USSR-3?

COLONEL SMIRNOV: Yes, Mr. President, it is a part of the report USSR 3, called Special Instructions of the Hitlerite Govemment concerning the Treatment of Prisoners of War. I would like to ask the Tribunal to allow me to present an original document.

It says there that these special units were located in Smolensk and were assigned to carry out mass killings in the prisoner of war camps.

THE PRESIDENT: Yes, Colonel Smirnov. This document is already in evidence, if the Tribunal understands.

COLONEL SMIRNOV: Thank you, Mr. President.

BY COLONEL SMIRNOV:

Q Consequently, we may consider it as a matterof fact that the correspondence of these special units did not pass through your hands; is that correct?

THE PRESIDENT: He has said that twice already.

COLONEL SMIRNOV: Excuse me, Mr. President,

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BY COLONEL SMIRNOV:

Q Why do you contend with such certainty that there were not reports about the killing of the Poles? Because the killing of the Poles was a special action, and communications of this action was not supposed to pass through your hands? Is that correct?

A I answered to the Soviet prosecutor -- rather I answered Dr. Stahmer-- that if in the area of the Signal Group 537 killings of that sort had taken place I would have known about them. As the prosecutor just said, I did not claim that which he is trying to put before me.

THE PRESIDENT: Colonel Smirnov, the Tribunal think you had better read this passage from this document, which is in the German language, to the Tribunal so that it will go into the record.

COLONEL SMIRNOV: Yes, Mr. President.'

THE PRESIDENT: Go on, Colonel Smirnov.

COLONEL SMIRNOV: Thank you, Mr. President.

This document is dated Berlin, 29 October 1941. It has a classification "Secret, important state matters", In the column concerning the reason, there is a reference to July and the 12th of August, 1941. I shall now read a few short sentences, and I shall begin with the first sentence:

"In the appendix, I give your directions for the evacuation of Soviet war civilian and prisoner of war camps and transient camps in the rear army territories and ask you for your acknowledgment.

"These directives have been worked outin collaboration with the OKH. The OKH has advised the commanders of therear army territory as well as the local commanders of the prisoner of war camps and the transient camps.

"The Special Action Groups, depending on the size of the camp in their territory, are setting up Sonder Commandos in sufficient strength under the leadership of an SS leader."

Now I shall start reading the last paragraph:

"I emphasize especially that the orders Nos. 8 and 14, in case of evacuation, are to be destroyed immediately and a report is to be made in such a case to me."

Now I shall only mention those areas to which this order has been sent, especially the part concerning Smolensk. It says here that in Smolensk

was located near Einsatzgruppe B, composed of Einsatzcommandos 7-A, 7-B, 8, and 9; and in addition to this, there was also located in Smolensk, a Sonderkommando Moskov, which had been so named prematurely.

THE PRESIDENT: The Tribunal directs that the whole document shall be translated. We will now recess until five minutes past two.

(A recess was taken until 1405).

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AFTERNOON SESSION

(The hearing reconvened at 1400 hours, 1 July 1946.)

REINHARD EICHBORN -- Resumed

CROSS EXAMINATION -- Continued

COLONEL SMIRNOV: Mr. President, I have no more questions to put to this witness.

THE PRESIDENT: Dr. Stahmer.

REDIRECT EXAMINATION

BY DR. STAHMER:

Q. Mr. Witness, do you know who was in that Dnieper Castle before the occupation by German troops, who owned it, who lived there ?

A. That, I cannot say for certain. We noticed that the little castle was furnished astonishing well. It was built very efficiently. It had two bathrooms, a skiing room, a rifle range and a cinema. Just then we had drawn certa conclusions, that is to say, when the events became known but I do not know anything certain about the previous owner.

Q. The Russian prosecutors have submitted to you a document dated the 29th of October 1941. It contained directives for commandoes of the chief of the army group. With reference to that document, I want to ask you whether you had an opportunity to learn personally what the attitude of Fieldmarshal Kluge was, the chief of the army group, what his views were regarding the shooting of prisoners of war ?

A. Quite by accident, I became the personal witness of a conference between Bock and Kluge, both supreme commanders. That conversation took place about two or three weeks, three or four weeks before the beginning of the Russian campaign and I cannot tell you the exact time. At the time, Fieldmarshal von Bock was the supreme commander of the army group center and Fieldmarshal von Kluge was the supreme commander of the 4th army group, at Warsaw. One day, I was called by the adjutant of Fieldmarshal von Bock, who was Lt. Colonel Count Hardenberg. He gave me the -------

THE PRESIDENT: Those details are entirely irrelevant, aren't they. All you want to ask him is : what was the attitude of von Kluge ? That is all.

DR. STAHMER: The answer didn't come through. I didn't understand, Mr. President, what you said.

THE PRESIDENT: I said that all these details are irrelevant.

DR. STAHMER: It still isn't coming through. Yes, now Mr. President.

THE PRESIDENT: What I said was, that all these details about the particular place where von Kluge met some other army group commander is utterly irrevelant. All you are trying to ask him is : what was von Kluge's attitude towards the murder of war prisoners ? Isn't that all ?

DR. STAHMER: Yes.

BY DR. STAHMER:

Q. Will you answer the question briefly, Mr. Witness. Please just tell us what von Kluge said .

A. Von Kluge told von Bock during a telephone conversation that the directi which contains orders to shoot certain prisoners of war was an impossibility and could not be carried out, considering the discipline of the troops. Von Bock shared this point of view and both these gentlemen talked for half an hour about the measures which they wanted to adopt in this connection.

Q. According to the allegations of the prosecution, the shooting of these eleven thousand Polish officers is supposed to have been carried out sometime i September 1941 and the question now is : Do you consider it possible, considering the local conditions, that such mass shootings and burials could have been carried out next door to the regimental headquarters without you yourself having heard about it ?

A. In preparation for the move of the army group to Smolensk, we were most attentive. We had quite a lot of signal troops which were used for the purpose of extending the site. The entire site was continuously used by these troops for the laying of cables and telephone lines and it is out of the question that any such event could have occurred in that particular area without th regimental headquarters having failed to gain knowledge of it.

DR. STAHMER: I have no further questions to the witness, Mr. President.

THE PRESIDENT: The witness can retire.

H0170 - 0047

DR. STAHMER: Mr. President, before calling my third witness, Lt. General Oberhausser, may I ask your permission to make the following remarks ? The prosecution have up to now only alleged that Regiment No. 537 had been the one which had carried out these shootings and it has alleged that they have done so under Colonel Ahrens' command. Still today, Colonel Ahrens is accused of being the perpetrator. Apparently this allegation has been dropped because it has been said that if it wasn't Ahrens it must have been his predecessor, Colonel Bedenck, and if it hasn't been done by Colonel Bedenck, then apparently there is supposed to be a third version, that it has been done by the SD. The defense had entirely adapted themselves to the contradicting statement that it had been Colonel Ahrens who had committed the act, but considering the changed attitude adopted by the prosecution, I shall have to name an additional fourth witness and that is 1st Lieutenant Hodt who has been mentioned as the perpetrator today and who was with the regimental staff right from the beginning and who was with the advance party which arrived at the Dnieper Castle, in July. The address of 1st Lieutenant Hodt, I heard of quite accidentally yesterday. He is at Gluecksburg near Flensburg and I therefore ask to be allowed to name 1st Lieutenant Hodt as a witness, who will give evidence that during the time between July and September such shootings were not carried out.

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THE PRESIDENT: Dr. Stahmer, the Tribunal will consider your application when they adjourn at half past three with reference to this extra witness.

DR. STAHMER: Yes, sir. Then I shall now call the witness Lt. General Oberhaueser.

EUGEN OBERHAUESER, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name, please?

A Eugen Oberhaueser.

Q Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath).

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. STAHMER:

Q General, what position did you hold during the war?

A I was the signals commander in an Army group first of all, during the Polish campaign North; then Western campaign B, and then in Russia, Army Group Center.

Q When did you and your staff reach the neighborhood of Katyn?

A Sometime during September, 1941.

Q Where was your staff located?

A My staff was located in the immediate vicinity of the Supreme Commander of the Army Group; that is to say, about twelve kilometers west of Smolensk near the railroad station of Krasnibor.

Q Was Regiment No. 537 under your command?

A Regiment 537 was directly under my command.

Q What task did that regiment have?

A That regiment had the task of establishing both wireless and telegraph

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communications between the Supreme Command of the Army Group and the various armies and other units which were directly under its command.

Q Was the staff of that regiment accommodated near you?

A The staff of that regiment was about three kilometers west from my own position.

Q Can you give us more detailed information regarding the exact location of the staff quarters, 537 I mean?

A Staff quarters of 537 were in a rather nice Russian timber house. Commissars were supposed to have been living there before and it was on the steep bank of the River Dnieper. It was somewhat off the road, perhaps four to five hundred meters away and it was four kilometers west from the main highway Smolensk to Wibetsk.

Q Who wasthe commanding officer of the regiment after the capture of Smolensk?

A After the capture of Smolensk, Colonel Bedenck was the colonel of the regiment?

Q For how long?

A Until about November, 1941.

Q Who was his successor?

A His successor was Colonel Ahrens.

Q How long?

A Approximately until September -- it may have been August, 1943.

Q Were you near Katyn aslong as that, too?

A Until the Supreme Command of the Army Group transferred its headquarters farther west, I was still there.

Q What were your relations to the commanders of this regiment?

A My relations to the regimental commanders were most hearty, both officially and after duty, which is due to the fact that I myself had been the first commander of that regiment. I myself had formed the regiment and I was most attached to it.

Q Did you personally visit the Dnieper castle frequently?

A I went to the Dnieper castle frequently; I can well say, in normal times, once or twice a week.

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Q Did the commanders visit you in the meantime?

A The commanders came to see me more frequently than I went to see them.

Q Did you know anything about the fact that near Smolensk, about twenty-five to forty kilometers from the town, there were three Russian camps which contained Polish prisoners of war who had fallen into the hands of the Germans?

A Nothing was known of that to me. I have never heard of it.

Q Was there an order, which is supposed to have come from Berlin, that Polish officers who were prisoners of war should be shot?

A No, there neverwas such an order issued.

Q Have you yourself given such an order?

A I have never given such an order.

Q Do you know whether Colonel Bedenck or Colonel Ahrens have caused such shootings to be carried out?

A I am not informed, but I consider it absolutely impossible.

Q Why?

A Because such a decisive order would first, unconditionally, have gone through me, for I was the direct superior of the regiment. And, secondly, because if such an order had been given, for a reason which I couldn't explain to myself and through a channel which I wouldn't have been able to control, then the commanders would most certainly have called me or they would have come to see me and they would have said: "General, they are asking something here which we can not understand."

Q Do you know First Lt. Hodt?

A Yes, I know him.

Q What position did he have in Regiment 537?

A Hodt had a number of posts in the regiment. Mostly, he was sent ahead because he was a particularly qualified officer, particularly technically qualified. He was usually making preparations when headquarters were changed. He was used as an advance party of the so-called technical company, in order to establish the new fighting positions; and then in the regiment he was the expert for the telephone system. That meant he dealt with all telephone calls and all technical sides of the telephone system with the Supreme Commander of the Army Group, and in my staff he was often used to fill the position of any of

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my officers who were on leave.

Q Was he also in charge of the advance party during the advance on Katyn?

A That I cannot say. I can only say that I personally heard from the head of my staff communications system that he had sent an officer ahead, after it had been ascertained where the headquarters were to be constructed, that this officer was acting on my behalf and was preparing things in such a way as I wanted it from the point of view of the communications troop commander. I do not know who was in charge of that advance party at the time, but it is perfectly possible that it was Lt. Hodt.

Q Were you, during the period after the capture of Smolensk, on or about the 20th of July, 1941, and in the transfer of your staff to Katyn on the 20th of September, were you in Katyn or the vicinity?

A I was in the vicinity. I was where the headquarters of the Army Group wanted to establish itself; that is, in the woods west of Smolensk, on the fringe of which was Katyn.

Q Were you there a lot during that time?

A I should say two or three times.

Q Did you talk to Hodt on these occasions?

A If he was the officer in charge of that advance party, which I can not say today, then I must have talked to him certainly. At any rate, I did talk to my officer, the one I went, and on that occasion, the one belonging to the regiment also.

Q Have you heard anything about the question of whether, during that time, shooting occurred?

A I have never heard anything except in 1943, when these graves were opened.

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Q Did you or Regiment 537 have the necessary technical means, pistols, ammunition and so on, at your disposal which would have made it possible to carry out such a decree?

A The regiment was supplied, according to strength, with ammunition and weapons. Naturally, because it was a communications regiment in the rear area, it was less efficiently equipped than the fighting troops. Such a task, however, would have been something unusual for the regiment, because a communications regiment has completely different tasks, and it wouldn't have been in a position technically to carry out such mass executions.

Q Do you know the location where those graves were discovered later on?

A I know the site because I drove past it a great deal.

Q Can you describe it more accurately?

A Taking the main road Smolensk-Witebsk, a wooded part led through undulating ground. There were scattered spaces, which were overgrown with timber, however, and heather, and used as a path to get to the Kniaper Castle from the main road.

Q Was the place where those graves were later discovered overgrown when you got there?

A It was overgrown just like the surrounding ground, and there was no difference between that space and the remaining part of the ground.

Q Considering your knowledge of the vicinity, would you consider it possible that 11,000 Poles could have been buried on that spot, people who may have been shot between June and September, 1941?

A I consider that it is out of the question, certainly for this one reason alone, that if the commander had known it at the time he would certainly never have chosen as a place for his headquarters the spot next to 11,000 dead.

Q Can you tell me how the discovery of the graves happened?

A I had no official dealings with that. I only heard that through inhabitants or somebody it had become known that those large-scale executions had taken place there.

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Q From whom did you hear that?

A Quite probably through the commander himself, who, because he was directly on that site had heard more about that than even I had. But I can't remember that exactly now.

Q So you didn't receive official notice about the discovery of the graves, did you?

A No, I didn't.

Q After the opening of the graves, did you talk to the German or foreign members of that commission?

A I have never talked to any members of that commission.

DR. S TAHMER: I have no further questions, Mr. President.

THE PRESIDENT: Colonel Smirnov.

CROSS EXAMINATION

BY COLONEL SMIRNOV:

Q Witness, you arrived in the region of Katyn in September 1943?

A 1941, not 1943.

Q Excuse me. I meant September 1941. Is that correct?

A Yes, September 1941.

Q And you content that you did not know anything about camps of Polish prisoners of war who were in the hands of German military authorities, is that so?

A I have never at any time heard anything about Polish prisoners of war being in the hands of German troops.

Q I understand that this had no direct relation to your official activity as a signal corps officer, but did you ever witness cases when German military units combed the woods through the vicinity of the highway Smolensk-Witebsk to stop Polish prisoner of war who escaped from the camps?

A I have never heard anything about troops moving there in order to, shall we say, recapture escaped Polish prisoners of war. I have heard about that here for the first time.

Q Please answer me. Haven't you seen German military units searching for Polish prisoners of war who were hiding in the woods?

A I have not seen them.

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Q Please answer the following question: You were on good terms with Colonel Ahrens, weren't you?

A I have good relations with all commanders of the regiment.

Q And in addition to that, you were his immediate superior?

A Right.

Q Colonel Ahrens found out about the mass graves at the end of 1941 or at the beginning of 1942. Did he tell you about this, about the fact that he discovered them?

A I cannot believe that in 1941 Colonel Ahrens is supposed to have discovered the graves. I cannot imagine that, and if he had, I would have known about it then.

Q So you contend that in 1942 and in 1943 Colonel Ahrens didn't communicate with you in regard to this fact?

A Colonel Ahrens never told me, and he would have told me if he had known.

Q I am interested in the following answer to the question of the defense. You said that the signal corps regiment had not enough weapons to carry out these shootings. What do you mean by that? What number of weapons did you possess?

A The signal regiment was mostly equipped with pistols and with carbines. They had no heavy arms.

Q Pistols of what caliber?

A That was the Parabellum pistol. The caliber, I think, was 7.65, but I can't remember for certain.

Q Parabellum pistols. Were these Mauser pistols or some other weapons?

A That varied. Non-commissioned officers, as far as I know, had the smaller Mauser pistols. Actually, only non-commissioned officers were equipped with pistols. The majority of the men had carbines.

Q I would like you to tell us some more about the pistols. You say that they were 7.65 caliber pistols, is that true.

A I cannot now, at the moment, give you exact information about the caliber. I only know that the Parabellum pistol had

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7.65 or some such caliber. I think the Mauser pistol had a somewhat smaller caliber.

Q And Walther pistols?

A There were Walthers there too. I think they had the same caliber as the Mauser. It is a smaller pistol and it is better than the somewhat cumbersome Parabellum pistol which is heavier.

Q Yes. Please tell me whether in this regiment the junior officers possessed the pistols. Is that true?

A As a rule, non-commissioned officers had pistols but not carbines.

Q All right. Please tell us how many pistols this signal corps regiment possessed.

A Of course I cannot tell you that. Let's assume that every NCO had a pistol --

Q And how many were there all together? How many pistols were there in your regiment if you consider that every non-commissioned officer had a pistol?

A Then that would amount to about 15-. However, to give a definite statement about that figure now is impossible. I can only give you clues.

Q Why do you consider that 150 pistols would be insufficient to carry out these mass killings which went on over a period of time? Why do you think so?

A Because a signal regiment of an army group deployed in a large area is never together. The regiment went from Koladop as far as Topsk and there were small units everywhere, and in the central department of the regiment there were comparatively few persons. There were never 150 pistols in one and the same place.

Q The main part of your units was in the Katyn woods, wasn't it?

A I didn't understand your question.

Q The main units of your regiment were located in the Katyn woods, weren't they?

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A Principally there was the first company between the regimental staff quarters and the actual command of the army group. They were accommodated there and they were the company which was handling the communications, the telephone and teleprinted messages for the army group. It was that company, therefore, which was nearest.

Q One more question. The officers of your regiment were obviously armed with pistols and not with carbines ?

A Officers had pistols only and as a rule they only had small ones. Possibly one or the other may have had a Parabellum pistol.

Q That is to say or a Walther or Mauser ?

A Yes, that is right.

Q Did you frequently visit the villa where the headquarters of Regiment 537 was located ?

A Yes, I was there at least once, sometimes twice a week.

Q Were you interested as to why soldiers from other military units visited the villa and special beds were prepared for them as well as drinks and food in the kitchen ?

A I cannot imagine that any large-scale visits of strange soldiers or members of other units visited there or could have arrived there and would have been there. I do not know anything about that anyway.

Q I did not speak about a great number. I am speaking of twenty or sometimes twenty-five men.

A If the regimental commander received his chiefs and commanders for an officers' meeting then, of course, the little castle at the Dnieper would have a number of officer visitors which it normally would not have.

Q No, I have not mentioned the officers.

I would like to ask you another question. Would the figure 537 appear on the epaulettes of the soldiers belonging to the 537 regiment ?

A As far as I recollect the figure was on the epaulettes and at the beginning of the war they could be covered up to camouflage then but I cannot remember whether during that particular period these cover-up flaps were used or not. At any rate entrance to the regimental headquarters had a yellow and black flag, which bore the figure 537.

Q I am speaking about the arrival of soldiers who did not have on their shoulder strap the figure 537. Were you interested in finding out what those

soldiers did there in September and October of 1941 ? Did your commanders report to you about this ?

A May I ask what year this was, in 1941 ?

Q Yes, 1941.

A I do not think that at that time there was a lot of traffic of strangers at staff headquarters because during that period everything was being constructed and I cannot imagine that strange group units even of 20 or 30 people should have been there. I personally, as I have told you, was there only once or twice weekly during the beginning of October-November.

Q Beginning with what date of September did you start visiting this villa once or twice a week ? What is the exact date ?

A That I cannot say, I cannot tell you. The commanders of the army group were at the end of September and shortly before the battle of Yasma moved into that district from Volsov.

Q Consequently, you could start visiting this villa only at the end of September or beginning of October.

A Then the little castle was finally occupied and the regiment did not arrive much earlier than we from the supreme command of the army group. They did not move there much earlier.

THE PRESIDENT : Colonel Smirnov, is it necessary to go into this detail ? Have you any particular purpose in going into so much detail ?

COLONEL SMIRNOV : Mr. President, I ask this question for the following reasons. Later we shall interrogate witnesses for the Soviet Prosecution on the same point and chiefly that person who was the chief of the legal and medical branch. That is why I would like to ask the permission of the Court to clarify this point concerning the time when the witness visited the villa.

THE PRESIDENT : Yes, very well. Do not go into greater detail than you find absolutely necessary.

BY COLONEL SMIRNOV :

Q Consequently, at the beginning of September 1941 you were not in the villa of Katyn woods and you could not be there, is that true ?

A I cannot remember that exactly. The regimental commander used it and he reconnoitered around the little castle and set it up for staff headquarters When exactly he moved I cannot possibly tell you because I had other jobs to do.

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Q No, I asked whether you personally could be in the villa during the first part of September, roughly up to the 20th. of September. Could you be there or not ?

A I do not think so.

COLONEL SMIRNOV : I have no further questions, Mr. President.

THE PRESIDENT : Do you wish to re-examine ?

DR. STAHMER : Unfortunately, Mr. President, I shall have to come back to the question of time because it was not brought out too clearly during these last questions.

RE-DIRECT EXAMINATION

BY DR. STAHMER :

Q The decisive point is this, general. When did regiment 537 move into the castle ?

A Again I assume during September.

Q Beginning or end ?

A Probably rather more towards the end of September.

Q Until then only the advance party were there ?

A The advance party of the regiment was there and the officer whom I sent ahead.

Q How many non-commissioned officers were with the advance party ?

A I cannot tell you exactly who the regiment sent. I personally had sent one officer. Generally the regiment could not have sent too many. Generally speaking, it is always the case that the regiment is still serving at the old position and simultaneously it is to construct the new position. Consequently, during this period of re-grouping, shall we say of the leap of a supreme command of an army group, there is always a considerable shortage of manpower. The old position still has to be looked after, the new position requires men for construction so that as always during this period, there were too few people.

Q Can you not even give us an estimate of the figure of that advance party ?

A Thirty, forty or fifty men.

Q How many non-commissioned officers ?

A Very probably one or two officers, a few non-commissioned officers and some other ranks.

H0170 - 0059

Q The regiment was very widely drawn out, was it not ?

A Yes.

Q How far, approximately ?

A In the entire area of the army group center, Orel shall we say, Orel-Vitebsk -- in that entire area they were widely dispersed.

Q How many kilometers was that, approximately ?

A Four or five hundred kilometers.

Q Do you know Judge Advocate General Dr. Konrad of the Army group ?

A Yes.

A Do you know whether he, in 1943, interrogated the local inhabitants about the date when the Polish officers were supposed to have been shot in the wood ?

A No, I do not know.

DR. STAHMER : I have no further questions, Mr. President.

BY THE PRESIDENT :

Q Were there any Einsatzkommandos in the Katyn area during the time that you were there ?

A Nothing has ever come to my knowledge about that.

Q Did you ever hear of an order to shoot Soviet commissars ?

A I only heard of that by heresay at the time.

Q When ?

A Probably at the beginning of the Russian campaign, I think.

Q Before the campaign started or after ?

A I cannot remember having heard anything like that before the beginning of the campaign.

H0170-0060

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Q Who were to carry out that order?

A In that sense, signal troops are not really fighting troops. Therefore, that probably had nothing to do with that, and therefore, we were in no way affected by the order.

Q I did not ask you that. I asked you who had to carry it out.

A Those who came into contact with these people, presumably.

Q Anybody who came in contact with Russian Commissars had to kill them; is that it?

A No, I assume that the fighting troops, the actual fighting troops who were right out front and therefore had immediate contact with the enemy could be the only ones who were affected by that order. A signal regiment did not come into a position to to meet Commissars. That is probably why we were not mentioned in the order or affected by it.

THE PRESIDENT: The witness can retire.

COLONEL SHIRNOV: Mr. President, I ask permission to call as witness the former deputy mayor of the city of Smolensk during the German occupation, Professor of Astronomy, Bazilevsky Boris.

BAZILEVSKY BORIS, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name, please?

A Professor Bazilevsky Boris.

Q Will you make this form of oath:

I, a citizen of the USSR, called as a witness in this case, solemnly promise and swear before the High Tribunal to say all that I know about this case and to add or to withhold nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

COLONEL SHIRNOV: With the permission of the Tribunal,

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I should like to start with my interrogation, Mr. President.

THE PRESIDENT: Certainly.

BY COLONEL SMIRNOV:

Q Please tell us, witness, what your occupation was before the German occupation and where you were living in Smolensk.

A Before the occupation of Smolensk and the surrounding region, I lived in the city of Smolensk and was professor first at the Smolensk University and then--

Q Please speak slowly.

A --and then of the Smolensk Pedogogical Institute, and at the same time I was Director of the Smolensk Astronomical Observatory. For twenty years I was the Dean of the Physics and Mathematics Faculty, and in the last years I was deputy of the Director of the Scientific part of the Institute.

Q How many years did you live in Smolensk altogether?

A From 1919.

Q Do you know what the Katyn Woods was?

A Yes.

Q Please speak slowly.

A Actually, it was a grove, a clearing in which the inhabitants of Smolensk used to pass their leisure time and holidays.

Q Was this forest before the war a special reservation which was fenced or guarded?

A During the many years that I lived in Smolensk, this place was never fenced, and no restrictions were ever placed on access to it. I personally used to go there very frequently. The last time I was there was in 194- and in the spring of 1941. In this woods there was also a camp for pioneers. Thus, there was free access to this place for everybody.

Q Please tell me in what year there was a pioneer camp?

A As far as I know, it was there during many years.

THE PRESIDENT: Wait a minute. Professor, will you wait a minute, please? When you see that yellow light go on, it means that you are going too fast, and when you are asked a question, will you pause before you answer it? Do you understand?

THE WITNESS: Yes.

H0170-0063

BY COLONEL SMIRNOV:

Q Will you please repeat your answer, and very slowly, if you please.

A For the last time I know that the pioneer camp was in the area of the Katyn Woods in 1941.

Q Consequently, in 1940 and 1941 before the beginning of the war--and you speak also of the spring of 1941--the Katyn Woods was not a special reservation and was accessible to everybody?

A Yes. I say that that was the situation.

Q Do you say this as an eye-witness or from hearsay?

A. No, I say that as an eye-witness, who used to go there frequently.

Q. Please tell the Tribunal under what circumstances you became the first deputy of the mayor of Smolensk during the period of the German occupation. Please speak slowly.

A. I was an administrative employee, and I did not have an opportunity of leaving the place in time, since I was busy saving the very precious library of the Institute and the very precious equipment. I had an opportunity, thanks to circumstances, to try to escape only on the 15th in the evening, but I did not succeed in catching the train. I was supposed to leave the city on 16 July in the morning, but during the night of 15 to 16 the city was unexpectedly occupied by German troops. All the bridges across the Dneiper were blown up, and I found myself in captivity.

After a certain time, on 20 July, a group of German soldiers visited the observatory of which I was the Director. They took down that I was the Director and that I was living there and that there was also a professor of physics living in the same building.

In the evening of July 20 two German officers came to me and brought me to headquarters of the unit which had occupied Smolensk. After checking my documents and after a short conversation, they suggested that I become Chief of the city. I refused, basing my refusal on the fact that I was a professor of astronomy and that I had had no experience in such matters and that I could not assume this role. They then declared categorically, "We are going to force the Russian intelligentsia to work."

Q. Thus, if I understand you correctly, the Germans forced you my threats to become the Deputy Mayor of Smolensk?

A. That is not all. They told me also that in a few days I would be summoned to the Kommandantur.

THE PRESIDENT: You are spending a lot of time on how he came to be Mayor of Smolensk.

COLONEL SMIRNOV: Will you please allow me to pass to other questions, Mr. President? Thank you for your observations.

H0170 – 0064

BY COLONEL SMIRNOV:

Q. Who was your immediate superior? Who was the Mayor of Smolensk?

A. Michagin.

Q. What were the relations between this man and the German administration and particularly with the German Kommandantur?

A. These relations were established and became closer and closer every day.

Q. Is it correct to say that Michagin was the trustee of the German administration and that they even told him some secret information?

A. Yes.

Q. Do you know that in the vicinity of Smolensk there were Polish prisoners of war?

A. Yes, I do very well.

THE PRESIDENT: I do not know what this is going to prove. You presumably do, but can you not come nearer to the point?

COLONEL SMIRNOV: He said that he knew there were Polish prisoners of war in Smolensk, and with the permission of the Tribunal, I would like to ask the witness what these prisoners of war were doing.

THE PRESIDENT: Very well; go on.

BY COLONEL SMIRNOV:

Q. Please answer. What were the Polish prisoners of war doing in the vicinity of Smolensk, and at what time?

A. In the spring of 1941, and at the beginning of the summer they were working on the restoration of roads.

Q. What do you know about the further fate of the Polish prisoners of war?

A. Thanks to the position that I occupied, I learned about the fate of the Polish prisoners of war very early.

Q. Please tell the Tribunal what you know about it.

A. In view of the fact that in the camp for Russian prisoners of war ther. was such a regime that prisoners of war were dying by the hundreds every day, I tried to liberate men whenever I had the slightest reason to enter this camp.

H0170 – 0065

I learned that in this camp there was also a very well known pedagogue named Chivlinski. I asked Michagin to ask the German Kommandantur of Smolensk, and in particular von Schwaetz, and try to liberate Chivlinski from this camp.

Q. Please do not go into detail and do not wast time, but tell the Tribunal about your conversations with Michagin. What did he tell you?

A. Michagin answered my request with, "What is the use? We can save one, but hundreds will die." However, I insisted, and Michagin, after a certain amount of hesitation, agreed to make such a demand upon the German Kommandantur.

Q. Please be short and tell us what Michagin told you about the German Kommandantur.

H0170 - 0066

H0170 – 0067

A Two days later he told me that he was in a bad spot because of my demand. Von Schwaetz refused him, referring to an instruction from Berlin in establish a very severe regime with respect to prisoners of war.

Q What did he tell you about Polish prisoners of war?

A As to Polish prisoners of war, he told me that Russians themselves would die in the camps while there were orders to exterminate the Poles.

Q What conversation took place between you?

A I answered. I said, "What do you mean? What do you want to say? How do you understand this"? And Michagin answered: "You should understand this in this in the very literal sense of these words. He asked me not to tell anybody about it, since it was a very great secret."

Q When did this conversation of yours take place with Michagin?

A This conversation took place at the beginning of September, I cannot remember the exact date.

Q But you remember it was the beginning of September?

A Yes.

Q Did you ever mention once more this fate of Polish prisoners of war in your further conversations with Michagin?

A Yes. Two weeks later--that is to say, at the end of September--I could not help asking him, "What was the fate of the Polish prisoners of war?" At first Michagin hesitated, and then he told me, "They have already died. It is over with them."

Q Did he tell you where they were killed?

A He told me that they had been shot in the vicinity of Smolensk.

Q Did he mention the exact place?

A No, he did not mention the exact place.

Q Tell me this. Did you, in turn, tell anybody about the extermination, by Hitlerites, of the Polish prisoners of war near Smolensk?

H0170-0068

A I talked about this to Professor Ischimov, who was living in the same house with me. In addition to that, a few days later I had a conversation about this with Dr. Nipolski, who was a physician in the city. However, I found out that Nipolski knew about this from some other source.

Q Did Michagin tell why these shootings took place?

A Yes. When he told me of the prisoners of war who were killed, he emphasized once more the necessity of keeping it a secret, in order to prevent disagreeable compromises. He started to explain to me the reasons for the German behavior with respect to the Polish prisoners of war. He pointed out that this was only one link in the chain of the general system of German policy with respect to Polish prisoners of war.

Q Did you hear anything about the extermination of the Poles from the employees of the German Kommandatura?

A Yes, two or three days later.

THE PRESIDENT: You are both going too fast, and you aren't pausing enough. You are putting your questions whilst the answers are coming through. You must have longer pauses, and go slower.

COLONEL SMIRNOV: Thank you, Mr. President.

BY COLONEL SMIRNOV:

Q Please continue, but slowly.

A I don't know where I was.

Q I asked you whether any of the employees of the German Kommandatura told you anything about the extermination of the Poles.

A Two or three days later, when I visited the office of Michagin, I found there an interpreter from the Seventh Division of the German Kommandateur who was in charge of the Russian Administration, and who had a conversation with Michagin concerning the Poles. He was a German from the country.

Q Perhaps you can tell us quickly what he said.

A When I entered the room he said: "The Poles are not a valuable nation, and their extermination may serve for the widening of living space for the German Nation." However, he said it in a

H0170-0069

very general form.

Q Did you hear about the concrete fact of the shooting and the extermination of the Polish prisoners of war?

THE PRESIDENT: You are doing exactly what I said just now. You are asking the questions before the translation comes through.

COLONEL SMIRNOV: Excuse me, Mr. President, I will try to speak more slowly.

BY COLONEL SMIRNOV:

Q Did you hear about the shooting of Polish prisoners of war near Smolensk? You heard it from Michagin and he, in turn, heard it from von Schwaetz. Is that true?

A When I entered the room I heard the conversation with Hirschfeld. I missed the beginning, but from the context of the conversation it was clear that they spoke about this event.

Q Did Michagin tell you about the shooting of Polish prisoners of war, referring to the Commandant, von Schwaetz?

A Yes; as far as my impression goes, he referred to von Schwaetz. But--and this is my deep conviction--he had conversation about it with private persons in the Kommandatura.

Q When did Machagin tell you that Polish prisoners of war were killed near Smolensk?

A It was at the end of September.

COLONEL SMIRNOV: I have no further questions to put to this witness, Mr. President.

THE PRESIDENT: The Tribunal will adjourn.

(A recess was taken.)

H0170 - 0070

THE MARSHAL: If it please the Tribunal, the defendant Hess is absent.

THE PRESIDENT: Dr. Stahmer.

CROSS EXAMINATION

BY DR. STAHMER:

Q Witness, in your testimony, just before the recess, you read off your testimony, if I observed correctly. Will you tell me whether that was so or not?

A I was not reading anything. I have only a plan of the courtroom in my hand.

Q It looked to me as though you were reading off your answers. How can you explain the fact that the interpreter already had your answer in his hands?

A I do not know in what manner the interpreters could have my answers beforehand. The testimony which I am giving was known to the Commission beforehand and during the preliminary questioning.

Q Do you know the little castle on the Dnieper, the little villa? Didn't you understand me or hear me? Do you know the little castle on the Dnieper, the little villa on the Dnieper?

A I do not know which villa you mean. There were quite a number of villas on the Dnieper.

Q The house which was near the Katyn Forest on the precipitous bank of the Dnieper River.

A I do not quite understand which house you mean. The shore of the Dnieper is quite wide and I do not understand your question.

Q Do you know where the graves of Katyn were found, in which eleven thousand Polish officers had been buried?

A I was not there. I did not see the Katyn burial grounds.

Q Had you never been in the forest of Katyn?

A As I already said, I was there not once but many times.

Q Do you know where this burial site was located?

A How can I know where the burial grounds were situated since I could not be there since the occupation?

Q How do you know that the little forest was not fenced in?

H0170 - 0071

A Before the occupation of Smolensk District by the German troops, the entire district, as I already stated, was not surrounded by any barrier but according to hearsay I knew that after the occupation, access to this forest was prohibited by the German High Command, by the German local command.

Q Therefore, you have no knowledge of the fact that here in the Katyn forest a sanitarium or a convalescent home of the GPU was located?

A I know very well that was known to all the citizens of Smolensk.

Q Then, of course, you also know exactly which house I meant when I put my question to you a little bit ago?

A I, myself, had never been in that house. In general, access to that house was only allowed to the families of the employees and of the convalescents. As to the other persons, there was no need for them to go there.

Q The house therefore was closed off?

A No, the house was not forbidden to strangers but why should a stranger go there since he was not meant to go to rest there. This was not a rest home for him but the garden and part itself was not fenced off.

Q Weren't there guards located there?

A I did not see them.

Q This Russian witness who reported to you about the matter dealing with the Polish officers, is that witness still alive?

A The lawyer must mean the Mayor Minchagen, if I am to understand you.

Q Yes. When you read off your testimony before, it wasn't easy for me to follow. Mayor Minchagen, is he still alive?

A Minchagen went away together with the German troops during their retreat, and I remained, and the fate of Minchagen is unknown to me.

THE PRESIDENT: Dr. Stahmer, you are not entitled to say to the witness "when you read your testimony off" just now, because he denied that he read his testimony off and there is no evidence that he has read it off.

BY DR. STAHMER:

Q Did this Russian witness tell you that the Polish officers had come from the camp at Kosielt sk?

A Do you mean the camp at Kosieltsk, yes.

Q Yes.

A

H0170 - 0072

A The witness did not say that.

Q Do you know that place and locality?

A Do you mean Kosieltsk? I do, yes. In 1940, in the month of August, at the end of August, I spent my leave there with my wife.

Q Do you know anything about this fact, whether Polish officers were present in a Russian prisoner-of-war camp?

A Yes, I knew that.

Q Up until what time did these prisoners of war remain there?

A I do not know that for sure but at the end of August 1940, they were there. I can say that with great certainty.

Q Do you know, witness, whether this camp, together with its inmates, came into German hands?

A Personally, according to my observations I do not know it but according to rumors, this was the case; that is, of course, not my own testimony and I myself did not see it but I heard it.

Q Did you hear where these prisoners or inmates remained or what happened to them?

A Yes, I know that they could not be evacuated.

Q Did you find out or learn what happened to them?

A I have already in my answers to the prosecutor testified that they were shot upon the order of the German Command.

Q And where did these shootings take place?

A The defense counsel has apparently not heard my answers. I already testified that the Mayor Minchagen said that they were shot in the neighborhood of Smolensk but where he did not say.

Q How many prisoners were involved here, what were the number of prisoners?

A Do you mean to say, during my conversation with Minchagen? I do not understand your question. Do you mean to say during my conversation with Minchagen? The exact number was not given.

Q What was the figure quoted to you by this?

A Minchagen did not quote the figure to me. I repeat that this conversation took place on the last days of September 1941.

H0170 - 0073

Q Can you give us the name of an eye-witness who attended this shooting, anyone who witnessed the shooting or was present there?

A I believe that these executions were carried out under such circumstances that I doubt any Russian witness would be present there.

THE PRESIDENT: Witness, you should answer the question directly. You were asked: "Can you give the names of anybody who was there?" You can answer that yes or no and then you can add any explanations necessary.

THE WITNESS: I will follow your instructions, Mr. President.

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THE PRESIDENT: Can you give the name of anybody who saw the executions?

THE WITNESS: No, I cannot name anybody who had seen it personally.

BY DR. STAHMER:

Q. Through what German organization or unit did the shootings allegedly take place?

A. I cannot give the precise name of that unit, but we heard that it was the Pioneer Battalion which was located there; but of course I do not know the exact location of the German troops.

Q. Were Poles involved here who came from the Camp at Kosieltsk?

A. In general, at that moment during our conversation, they were not connected, but I do not know whether there were any other prisoners of war who had not been previously at Kosieltsk.

Q. Did you yourself see Polish officers?

A. I did not know them myself but my students saw them and they told me that they had seen them in 1941.

Q. And where did they see them?

A. On the road where they were cutting out work at the beginning of summer, 1941.

Q. In what general area or location?

A. In the district of the highway Moscow-Minsk, a little bit to the west of Smolensk.

Q. Can you testify whether the Russian commander in chief had a report to the effect that Polish prisoners at the camp at Kosieltsk had fallen into the hands of the Germans?

A. No, I have no knowledge of that.

Q. What is the name of the German official with whom you talked at the Commandantur, the military government office?

A. Not in the Commandantur, but in theoffice of Minchigan. His name was Hirschfeld.

Q. What was his position?

A. He was a Sonderfuehrer of the 7th Detachment of the German Commandantur in the town of Smolensk.

H0170-0075

DR. STAHMER: I have no further questions, Mr. President - just another question of two, Mr. Presi[redacted].

BY DR. STAHMER:

Q. Because of your collaboration with the German authorities, were you because of that fact punished by the Russian government?

A. No, I was not.

Q. Are you at Liberty?

A. Not only at liberty but, as I have already reported, I am at the present time a professor of two high schools.

Q. Therefore, you are back in office?

A. Yes.

THE PRESIDENT: Colonel Smirnov, do you wish to re-examine?

COLONEL SMIRNOV: No, Mr. President, I have no further questions to put to the witness.

THE PRESIDENT: Witness, do you know whether the man, whose name I understand to be Minchagen, was told about these matters himself or whether he had any direct knowledge of them?

THE WITNESS: According to the words of Minchagen, I understood quite definitely that he had heard that himself at the Commandantur from von Schwaet: who was the Commandant at the beginning of the occupation. At the beginning o' the occupation the Commandant was von Schwaetz.

THE PRESIDENT: Then the witness may retire.

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COLONEL SMIRNOV: Mr. President, I beg the Tribunal to allow me to call as witness Professor of the Sofia University, Marko Antonova Markov, a Bulgarian citizen.

THE PRESIDENT: Are you the interpreter?

THE INTERPRETER: Yes, sir.

THE PRESIDENT: Will you give us your full name?

THE INTERPRETER: Ludomir Valev.

THE PRESIDENT: Will you repeat this oath after me:

I swear before God and the Law that I will interpret truthfully and to the

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best of my skill the evidence to be given by the witness.

(The Interpreter repeated the oath).

MARKO ANTONOVA MARKOV, a witness, took the stand and testified through the Interpreter as follows:

BY THE PRESIDENT:

Q. Will you give us your full name, please?

A. Dr. Marko Antonova Markov.

Q. Will you repeat this oath after me:

I swear, as a witness in this case, that I will speak only the truth, being aware of my responsibility before God and the Law, and that I will withhold and add nothing.

THE PRESIDENT: You may sit down.

MR. DODD: Mr. President, before this witness is examined, I would like to call to the attention of the Tribunal the fact that Dr. Stahmer asked the preceding witness a question which I understood went: How did it happen that the interpreters had the questions and the answers to your questions if you didn't have them before you. Now that question inplied that Dr. Stahmer had some information that the interpreters did have the answers to the questions, and I sent a note up to the interpreters and I have the answer from the Lieutenant in charge that no one there had any answers or questions, and I think it should be made clear on the record.

THE PRESIDENT: Yes, I think so, too.

DR. STAHMER: Outside the court room I was advised that this fact existed. Of course if it is not a fact, I wish to retract my statement. I was from authentic sources although I dod not recall the name of the person who gave me this information; but I did receive this information.

THE PRESIDENT: Such statements ought not be made by counsel until they have verified it.

COLONEL SMIRNOV : May I begin the cross examination of this witness , Mr. President ?

THE PRESIDENT : The examination, yes.

DIRECT EXAMINATION

BY COLONEL SMIRNOV :

Q Witness, I beg you to tell us briefly, without taking up the time of the Tribunal with too many details, under what conditions you were included in the so-called International Medical Commission created by the Germans in the month of April 1943 for the examination of the graves of Polish officers in the Katyn woods.

I beg you, whilst answering me, to pause between the question I put to you and your own answer.

A This occured at the end of April 1943. While working in the Medical Legal Institute where I am still working, I was called to the telephone by Dr. Guerow.

THE PRESIDENT : The witness must stop before the interpreter begins. Otherwise, the voices come over the microphone together. So the interpreter must wait until the witness has finished his answer before he repeats it.

Now, the witness has said -- at least what I have heard -- that in April 1943 he was called on the telephone.

A (Continuing) : I was called to the telephone by Dr. Guerow who was a secretary of Dr. Philo who was then Prime Minister of Bulgaria. I was told that as a representative of the Bulgarian Government I was to participate in some sort of international medical commission which would investigate certain corpses dicovered in the forest of Katyn, the corpses of Polish officers.

Not wishing to go, I answered that I had to replace the director of the institute who was away in the country. Dr. Guerow told me that according to an order of the Minister of Foreign Affairs who had sent the telegram, I would have to go to replace him there. Guerow told me to come to the Ministry. There I asked him if I could refuse to comply with this order. He answered that they were in a state of war and that the government could send anybody wherever and whenever it was deemed necessary.

Guerow took me to the principal secretary of the Minister of Foreign Affairs, Schuchmarnov. Schuchmarnov repeated this order and told me that we were to examine the corpses of thousands of Polish officers. I answered that

to examine thousands of corpses would take several months, but Schuchmarnov said that the Germans had already exhumed a great number of these corpses and that I would have to go together with other members of the commission in order to see what had already been done, and in order to sign, as Bulgarian representative, the protocol which had already been compiled.

After that, I was taken through the German Embassy to Councillor Mormann who arranged all the technical sides of the trip.

This was on Saturday, and on Monday the 26th of April in the morning I flew off to Berlin. There I was met by an employee of the Bulgarian Legation and I was taken to the Hotel Atlon.

Q Please answer the next question : Who took part in this international commission and when did they leave for Katyn ?

A On the next day, the 27th of April, we stayed in Berlin and the other members of the commission arrived there.

Q Who were they ?

A They were the following. Besides me, there were Dr. Birckler, the chief doctor of the Ministry of Justice and first assistant of the Bucharest University; Dr. Milosawitch, Professor for Legal Medicine at Zagreb, who was representative for Croatia; Professor Palmiera, who was Professor for Legal Medicine at Naples; Dr. Orses, Professor of Legal Medicine at Budapest; Dr.Schubeck, Professor of Pathological Anatomy at Bratislava for Slovakia; Dr. Haja, Professor for Legal Medicine at Prague, who represented the so-called Protectorate of Bohemia and Moravia; Professor Mavin, Professor of Legal Medicine, Geneva, representative for Switzerland; Dr. Sperleres, Professor for Eye Illnesses, who represented Belgium; Dr. De Burlett, Professor of Anatomy, representing Holland; Dr. Transe, First Assistant for the Institute for Legal Medicine at the Copenhagen University, representing Denmark; Dr. Saxein from Helsinki, Finland who was also Professor for Pathological Anatomy.

During the entire work of the commission, a doctor assisted who declared that he was a personal representative of President Laval.

Professor Pilger from Madrid also arrived, a very elderly man who did not take any part in the work of the commission.

Q Did all these persons go to Katyn ?

A All these persons came to Katyn with the exception of Professor Pilger.

Q Who besides the members of the commission left for Katyn with you ?

H0170-0079

A On the 28th we took off from Templehof Airdrome, Berlin for Katyn. We took off in two airplanes, about 15 to 20 persons were in each.

Q Maybe you can see who exactly was there?

A Together with us was Director Dietz, who met us and accompanied us. representing the Ministry of Public Health. There were also press representatives, and also representatives of the Minister of Foreign Affairs.

Q I will interrupt you. Will you tell us now when did the commission arrive in Katyn?

A The commission arrived in Smolenk on the 28th of April, in the evening.

Q How many work days did the commission stay in Smolensk, I insist work days?

A We stayed in Smolensk two days only, the 29th and 30th of April, 1943 and on the first of May, in the morning, we left Smolensk.

Q How many times did the members of the commission personally visit the mass graves in the Katyn forest?

A We were twice in the Katyn forest and precisely in the first part of the day on the 29th of April.

Q I mean how many hours did you spend near the mass graves?

A I consider not mor than three or four hours every time.

Q Were the membersof the commission present once during the exhumation of one of the graves?

A No graves were exhumed in our presence. We were shown only several graves which had already been exhumed before we arrived.

Q Therefore, you were shown already exhumed graves, near which the corpses were already laid out, is that right?

A Quite right. Near those graves were exhumed corpses already laid out there.

Q Were the necessary conditions for an objective and an all-sided scientific examination of the corpses allowed the members of the commission?

A The only part of our activity which could be characterized as a scientific, legal, modical examination was the autopsy carried out by certain members of the commission who were themselves legal medical experts but there were seven or eight of us who could answer to those qualification and as far as I recall only eight corpses were opened. Each of us opened

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one corpse, except Professor Heicker, who opened two corpses. Our further activity during these two days bore the character of a rapid examination under the direction of Germans or even a tourist walk and we saw the open graves and we were shown the peasant's house, a few miles distant from the Katyn forest, where in glass cabinets papers and objects of various sorts were kept. We were told that these papers and objects had been found in the clothes of the corpses which had been exhumed.

Q Did you see yourself how these papers were discovered or were they shown to you when they were already in glass cases?

A Documents which we saw in the glass cases had already been found before we arrived.

Q Were you allowed to investigate these documents, to examine these documents, for instance to see whether the papers were impregnated with any acids coming from the corpses, from the disintergration of the corpses or to carry out any other kind of scientific examination?

A We did not carry out any scientific examination of these papers. As I have already told you, these papers were exhibited in glass cases and we did not even touch them.

Q But I would like you to answer me nevertheless with a short answer, yes or no, to a question which I have already put to you briefly. Were the conditions which were created for you and for the members of the commission, were these conditions quite adequate for a scientific examination?

A In my opinion these conditions can in no way be qualified as adequate for a complete and objective scientific examination. The only thing which bore the character of a scientific nature was the autopsy.

Q But did I rightly understand you, that from the eleven thousand corpses which were discovered only eight were opened by members of the commission?

A White right.

Q Please answer the next question. In what condition were these corpses? I would like you to describe the state in which they were and also the state of the inner organs.

A As to the condition of the corpses in the Katyn

H0170-0081

graves I can only judge according to the state of the corpse which I myself opened. The condition of this corpse was, as far as I could ascertain, the same as that of all the other corpse. The skin was very well preserved, was partly dried up, of a brown-red color and in some parts there were blue markings from the clothes. The nails and hair, in most cases, had already fallen out. In the head of the corpse I opened there was a small shot, a bullet wound in the nape of the head. Only an unformed mass remained of the brain. The muscles were still preserved to such an extent that one could even see the heart valves. The inner organs were also preserved in a good state of preservation. But, of course, they were dried up, bent and darkened. The stomach bore the trace of some sort of contents. A part of the fat had turned into wax. We were impressed by the fact that while being dragged brutally, no members had detached themselves. I dictated on the spot of the examination a protocol. A similar protocol was dictated by the other members of the commission. This memorandum was published by the German under number 827.

Q I would like you to answer the following question. Did the legal medical experts testify to the fact that they were in the graves already three years?

A As to that question I could also only judge from the corpse I myself had opened. The condition of this corpse, as I have already stated was typical of the average condition of the Katyn corpses. These corpses were far from disintegrated since the fat was only beginning to turn into wax. In my opinion these corps were buried for a far shorter period of time than three years. I considered that these corpses had been buried not more than a year or a year and a half.

H0170-0082

Q Therefore, applying the criteria of Bulgaria--that is, of a more Southern climate--you considered that the corpses that were exhumed in the Katyn Forest had been lying under the earth for not more than a year and a half? Did I understand you correctly?

A Yes, quite right. I considered that they had been buried for not more than a year and a half.

THE PRESIDENT: The Tribunal will adjourn now.

(The Tribunal adjourned until 1000 hours, 2 July 1946.)